TRANSCRIPT OF RECORD

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM [redacted] 1916

No. 9[redacted]413

Frank
FREDERICK W. MERRICK, JOHN W. HARRER AND GRANT FELLOWS,

Appellants,

vs. (Consolidated Cause)

N. W. HALSEY & COMPANY, ET AL., AND THE WEIS FIBRE CONTAINER CORPORATION,

Appellees.

Appeal from the District Court of the United States for the Eastern District of Michigan.

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In the District Court of the United States

EASTERN DISTRICT OF MICHIGAN,

SOUTHERN DIVISION.

No. 131.

N. W. Halsey & Company, Continental & Commercial Trust & Savings Bank; Arthur B. Leach, Ferry W Leach, and George G. Olmstead; Henry L. Higginson, James J. Storrow, George C. Lee, N. Penrose Hallowell, Hugh G. Levick, Charles H. Schweppe, Francis L. Higginson, Jr., Frederick W. Allen, David Shaw and A. James Sheldon,

Plaintiffs,

vs.

Frank W. Merrick, John W. Haarer and Grant Fellows,

Defendants.

BILL OF COMPLAINT.

(Filed August 28, 1915.)

To the Honorable, the Judge of the District Court of the United States for the Eastern District of Michigan, Southern Division:

N. W. Halsey & Company; Continental & Commercial Trust & Savings Bank; Arthur B. Leach, Ferry W. Leach, and George G. Olmstead; Henry L. Higginson, James J. Storrow, George C. Lee, N. Penrose Hallowell, Hugh G. Levick, Charles H. Schweppe, Francis L. Higginson, Jr., Frederick W. Allen, David Shaw and A. James Sheldon bring this, their Bill of Complaint, against Frank W. Merrick, John W. Haarer and Grant Fellows, and thereupon said plaintiffs complain and allege—

1. That said plaintiffs, N. W. Halsey & Company and Continental & Commercial Trust & Savings Bank are and have been for a long time past corporations or-

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That such orders are accepted by your orators in Chicago, Illinois, and the securities so purchased are then forwarded to such purchaser in Michigan from your orators' office in Chicago.

7. That the representations made by your orators as to the stocks, bonds and other securities they sell in Michigan are true representations.

8. That your orators further show that they have been and now are being solicited by various persons, firms and corporations to sell securities as above described in Paragraph Third, in Michigan. That they have contracted to sell certain such securities and the owners or issuers thereof have undertaken and agreed to pay your orators a compensation for such service.

9. That your orators and those who now solicit that they sell such securities in Michigan, and those with whom they have agreements as to the sale of such securities, and the owners of such securities who have committed them to your orators for sale and those to whom they offer their said securities for sale have been informed that the said securities of the kind hereinbefore described in paragraph Third cannot be sold in Michigan unless full compliance is made by the issuer of such securities or the owners thereof, with Act 46 of the Public Acts of 1915 of the State of Michigan, which became effectual upon the 21st day of August, 1915.

10. Your orators further charge that said Act 46 of the Public Acts of 1915 of the Legislature of the State of Michigan is entitled "An Act to prevent fraud in the sale and disposition of stocks, bonds or other securities sold or offered for sale within the State of Michigan by any dealer, firm, company, association or corporation, foreign or domestic, by requiring an inspection of such stocks, bonds, or other securities and an inspection of the business of such persons, firms, companies, associations or corporations, including dealers and agents, and such regulation and supervision of the business of said persons, firms, companies, associations or corporations, including dealers and agents as may be necessary to prevent fraud in the sale within the State, of any stocks, bonds or other securities, and to provide a penalty for the violation thereof, and to repeal Act No. 143 of the Public Acts of 1913, approved May 2nd, 1913, and all other acts or parts of acts inconsistent herewith," a copy of said Act is hereto attached and marked Exhibit "A," and made a part of this your orators' Bill of Complaint.

11. That said Act 46 of the Public Acts of 1915, purports to create a Commission to be known as the Michigan Securities Commission composed of the Commissioner of the State Banking Department, the State Treasurer and the Attorney General of the State (Section 1), which Commission is by said Act given power, and upon it is imposed the duty to administer and to provide for the enforcement of the provisions of the said Act: that said Act purports to define foreign and domestic investment companies, and to include in such definition every person, corporation, co-partnership, company or association organized under the laws of any state, territory or government, which shall by itself or by or through others sell or negotiate for the sale of any stocks, bonds or other securities, issued by him, it or them within the State of Michigan (Section 2). That said Act does, however, exempt from the provisions certain securities which are listed in detail in Section 3 thereof to which Section reference is hereby made. That the said Michigan Securities Commission created by said Act does, as your orator is informed and believes, construe the said Act to embrace within such definition of said investment companies, any person, corporation or co-partnership, company or association which shall by itself or through others, sell or negotiate for the sale of any stocks, bonds or other securities issued by him, it or them within the State of Michigan and not therein specifically exempted, and does include therein your orator as such an investment company. That said Act does likewise purport to make said Michigan Securities Commission the successor of the Michigan Securities Commission created by Act 143 of the Public Acts of 1913, and provides that all proceedings pending before said last named commission and all acts both civil and criminal pending under said Act shall be confined and completed under said Act 43 of the Public Acts of 1915.

12. That said Act likewise does provide that before selling, offering for sale, taking subscriptions for or negotiating for the sale in any manner whatever in this State any stocks, bonds or other securities of its own issue, the investment company, whether domestic or foreign, shall file with the Michigan Securities Commission certain statements and documents specifically provided for, and described in Section 4 of said Act, which statements and documents shall be authenticated as therein provided, and shall contain a statement showing in full detail the plan upon which it proposes to transact busi-

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ness, such itemized accounts of its financial condition and assets and liabilities, and such information as to its business and affairs as is required by said Act including a copy of its prospectus and proposed advertisements. That the said Act likewise provides for the payment of certain fees to the said Michigan Securities Commission, likewise to be paid before selling, offering for sale, taking subscriptions for or negotiating for the sale in any manner any such stocks, bonds or other securities.

13. That the said Act likewise provides, that also, before offering for sale any of such stocks, bonds or other securities within the State of Michigan, the Company so offering same for sale shall file its irrevocable consent that suits and actions may be commenced against it in the court of any county in such State of Michigan where a cause of action may arise or in which the plaintiff may reside by service of any process or pleading authorized by the laws of Michigan on the Commissioner of the State Banking Department (Section 6).

14. That said Act further provides in Section 7 thereof that application of such investment company shall be heard by the Commission at its next regular monthly meeting, providing that the filing of such application shall precede such meeting by 24 hours, or at an adjourned or special meeting on 2 days notice to the applicant.

15. That said Act likewise provides that said Commission may demand from such investment company any further information which may be necessary to enable the Commission to pass on the questions which may come before it. That said Commission may cause an appraisal to be made of the property of said investment company (Section 8) and may fix the amount of stocks, bonds and securities which shall be issued by any corporation, foreign or domestic, in payment of property, patents, goodwill, promotion and intangible assets at the value it shall find the same to be worth and may require that such stocks and securities so issued shall be deposited in escrow under such terms as the Commission shall prescribe. That it likewise provides that said commission may withhold the license of such corporation to sell such stocks and securities if said corporation has issued securities in payment for property, patents, good-will, promotion and intangible assets in excess of the value fixed by the Commission or if such securities are not deposited in escrow as required by the Commission, until such securities in excess of the value found by the Commission

have been surrendered to the Corporation and cancelled by it and until the stock has been deposited in escrow as prescribed by the Commission.

16. That said Act does further provide, in Section 9 thereof, that upon the filing of said statements and documents with the said Michigan Securities Commission, as provided in the preceding Sections of said Act, and upon an examination by the Commission of the business and affairs of the Company, and upon the filing of such statements and documents which the aforesaid Commission shall deem it advisable to have filed, the said Commission shall examine such statements and the results of such investigation and if, after such examination, as in said Act provided, said Commission shall find that the proposed plan of business or its proposed contracts, stocks, bonds or other securities are fraudulent, or that its proposed contracts, stocks, bonds or other securities are of such a nature that the sale of said contracts, stocks or bonds or other securities would, in the opinion of the Commission, work a fraud upon the purchaser thereof, then the said Michigan Securities Commission shall disapprove the sale of such contracts, stocks, bonds or other securities and shall notify said company by registered mail, of its findings and disapproval, and it shall be unlawful for said company to do any business in the way of selling or offering for sale such securities within said state. That however if the said Commission shall not find that the proposed plan of said investment company or its proposed securities are fraudulent or are of such a nature that their sale would, in the opinion of the Commission, work a fraud on the purchaser, then it shall approve the sale of such stocks and shall issue a certificate in the form prescribed by the statute.

17. Said Act likewise provides among other things, and particularly in Section 10 thereof, that any person, corporation or co-partnership which is not the issuer of such securities but which shall in this state sell or offer for sale any of the securities of any investment company as in said Act defined, except such securities as are specifically exempted in the Act or which shall by advertisement or otherwise profess to engage in the business of selling or offering for sale, such securities shall be deemed to be a "dealer" in such securities and that no such dealer shall sell or offer for sale any such securities or profess the business of selling or offering for sale such securities unless he shall have filed a list of same with the Commission.

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It further provides that the term "dealer" shall not include the owner of such securities who sells securities owned by him when such sale is not in the course of continued and successive transactions of a similar nature. Nor shall it include one who, in a trust capacity created by law, lawfully sells any securities embraced in said trust.

It further provides that any dealer desiring to sell the securities of an investment company shall register both himself and his agents with the sale Commission, furnish it certain information required by it and pay to it certain fees both for said dealer and any agents thereof (Section 11).

That if said dealer shall be a non-resident of the State he shall file an irrevocable appointment of the Commissioner of the State Banking Department of Michigan as his or its agent in Michigan for the service of process.

Said act further provides as to said dealers by Section 15 thereof that no dealer, as defined by the Act, shall sell or offer for sale any securities unless the provisions of the Act shall have been complied with as to such securities nor until he shall have registered with the Commission; such dealer, if the investment company issuing the securities which the dealer desires to sell, has not itself complied with the Act may make application to the Commission for license to sell all said securities in the manner provided for applications by the investment company.

18. Said Act likewise provides in Section 13 thereof that the general accounts of every investment company as defined in said Act shall be kept in sufficient detail that the Commission can ascertain at any time its financial condition and that such books of account at all times during business hours except on Sundays and Holidays shall be open to stockholders and investors in said Company and the said Commission and its representatives.

19. Said Act likewise provides that all such investment companies as therein defined shall be subject to examination by the Commission or any member thereof at any time said Commission shall deem it advisable and shall pay a fee for such examination, and the expenses of such examiners; and that their failure to pay such fee shall forfeit their right to sell their securities within the State of Michigan.

That if upon any such examination it shall be made to appear to said Commission that further sale of the securities of such company would work a fraud on the purchaser, then the Commission may revoke the license of said investment company, on notice duly given and hearing had, and may, pending such hearing, suspend the right to sell such securities.

20. That the said Act provides in Section 14 thereof, that it shall be unlawful for any such investment company or dealer or representative thereof either directly or indirectly to sell or offer for sale or take subscriptions for or negotiate for the sale in any manner of such stocks, bonds, or other securities except as in said Act exempted unless and until the said Commission has approved same and issued its certificate of such approval. That said Act likewise provides that it shall be unlawful for any such investment company to transact business on any other plan than is set forth in the statements and papers required to be filed by said Act. That said Act likewise provides that it shall be unlawful for any investment company or dealer to issue; circulate or deliver any prospectus or advertisement differing from the copy filed with the Commission. That said Act likewise makes it unlawful for any newspaper to advertise the sale of any stocks, bonds or securities not approved by the Commission and not exempt under the Act.

21. Said Act also provides in Section 16 thereof that all the information obtained by the Commission with reference to such security, and all its records in reference thereto shall be open to the public and that it may from time to time issue, in pamphlet form or in newspaper advertisements, or otherwise, such information as it deems would be of public interest with reference to the securities sold or offered for sale within the State.

22. Said Act likewise provides in Section 17 thereof that it shall not be construed to repeal or modify any laws giving the State Banking Department control and supervision over State banks and the business of banking or the Commissioner of Insurance control and supervision over the business of insurance in this State.

23. Said Act likewise provides in Section 19 thereof, that any person who shall knowingly or willfully subscribe to or make or cause to be made any false statement or false entry in any book of any investment company with the intention or for the purpose of deceiving any person authorized to examine the affairs of such company or shall make or publish any false statement of

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and penalties to the Commission and to the publishers of the manual.

30. That said defendants have likewise issued certain blanks upon which are to be made the statements required from "investment companies" as defined by said Act as a condition precedent under said Act before the stocks, bonds and other securities of such company can be sold or offered for sale in Michigan. That a copy of such blank is attached hereto and marked Exhibit "B." That it is the blank which such investment company is required to fill out and the statement which it is required to make in order that it may sell or offer for sale its stocks bonds and other securities in Michigan, either through itself or its agent and in order that others may sell such securities in Michigan.

31. That said blank requires that said investment companies furnish information which is unreasonable, not pertinent to the purpose for which said statement is required under the Act and substantially impossible to furnish.

(a) Said blank requires a statement of the consideration paid for stocks and bonds whereas as to the unissued preferred stocks and bonds of investment companies no consideration has yet been paid.

(b) It requires a true and complete list of the holders of the securities of said investment companies whereas such list is constantly changing and cannot be truly and completely made.

(c) It requires a profit and loss statement which is not in conformity with the account upon its books and which cannot be made in the manner required in the blank from the books of said investment companies.

(d) It requires a true and complete statement of its receipts and disbursements for the past six or twelve months whereas such a statement would be cumbersome in the extreme, and would convey no information to said defendants pertinent to said purpose expressed in said Act.

(e) It requires a list of it officers, together with their holdings of stock and bonds in said investment companies, the actual cash invested, their estimated net worth and the time devoted to the Company whereas the number of shares and bonds owned is a matter confidential to said officers which said investment company has no right to divulge, nor has said company accurate information thereof: nor has said company any way in which to determine the actual cash invested by such officers in said

company; nor the estimated worth of its said officers. And your orators charge that all such information is not pertinent to the purpose of said Act and beyond the power of said defendants to require.

(f) It requires certain reference as to the character, responsibility and financial standing of each director of said company whereas the giving of such reference is not pertinent in any way to the purposes of said Act and beyond the power of said defendants to require.

32. That by reason of the requirements of said defendants as to said statement which must be filed by said investment company before it can sell or offer to sell its securities in Michigan, either by itself or through your orators, the property rights of your orators are invaded and destroyed and their freedom of contract curtailed, impaired and destroyed and they will be otherwise seriously damaged in their business and property.

33. That by reason of the enforcement of said law and the requirements of said defendants and the requirements of said statements so to be filed, your orators cannot sell or offer to sell within the State of Michigan, its said stocks, bonds and other securities, both certain of those they now own and those they have contracted to sell.

34. That said defendants have likewise caused to be issued their so-called Form No. S, "Dealers" Application, a copy of which is hereto attached and marked Exhibit "D," and publicly declared that all dealers, including your orators, in securities of investment companies, must file such application properly filled out before selling or offering such securities for sale in Michigan or professing to engage or engaging in said business therein. That said blank requires that such dealers and your orators furnish information which is unreasonable, and not pertinent to the purpose for which said statement is required.

(a) Said blank requires the statement of the number of shares of any stockholder in a dealer corporation, whereas such information is not pertinent and does not relate to the purpose for which the statement is required.

(b) Said blank requires the further filing of the appointment by said dealer, whether partnership or corporation, of an agent for service of process—whereas such requirement is invalid as to your orators.

That, even if your orators did comply with said requirements of the said Act and of the said defendants,

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your orators would be, by said Act, deprived of the right to sell their stocks, bonds and other securities in Michigan for a period of not less than 24 hours and for a much longer period unless their said application should be filed 24 hours before the regular meeting of said Commission after the furnishing of such statement and the compliance by your orators with said Act.

That the first regular meeting of said Commission will be held on Friday the 3rd day of September, 1915, and unless said Commission should hold a special meeting your orators would be deprived of the right to sell its stock from the date of this your orators bill of complaint to said third day of September, 1915.

35. That not only are your orators deprived of their right to sell such securities in Michigan but the investment company which issues said securities is likewise deprived of said right and owners thereof are also deprived of the right to sell same through brokers and dealers and through your orators except in compliance with the terms of said Act and requirement of said defendants.

36. That by reason of the heavy penalties in said Act set forth, brokers and dealers in the said securities and in similar securities fear to sell same or offer same for sale in Michigan, and your orators and said investment companies are deprived of the power to sell same in Michigan in any way whatsoever.

37. That the right to sell stocks and bonds and securities is a valuable right to said investment companies and to your orators. That in many cases the proceeds thereof are required to properly extend and carry on the business of said companies. That to deny to said companies the right to sell same in Michigan endangers their business and threatens to cause said companies serious damage and loss.

38. That the present owners of the securities of your orator acquired the same with the right to dispose of same in Michigan and elsewhere and free from any restrictions such as are imposed by said Act and any such restriction impair the said right and damage said owners and your orators.

39. Your orators show that they are each and all plaintiffs in a certain action brought in this court by a bill of complaint filed July 21, 1913, against Edward H. Doyle, John W. Haarer and Grant Fellows, which cause is known as Equity Cause No. 33. That in said bill of complaint said plaintiffs complained of the certain Act

143 of the Public Acts of 1913, the so-called Michigan Blue Sky Act of 1913, and charged said Act to be unconstitutional as in said bill of complaint more fully appears. That a preliminary injunction was prayed for by said plaintiffs and upon the hearing and consideration thereof the court rendered an opinion thereon declaring said Act unconstitutional and void, which said opinion is set forth and published in 210 Federal Reporter, 173. That thereafter a final decree was rendered in said cause in accord with said opinion and a permanent injunction issued against the enforcement of said Act by said defendants. That said Act 46 of the Public Acts of 1915, is substantially a re-enactment of Act 143 of the Public Acts of 1913. That its purpose and effect is simply to amend the Act of 1913. That while it, in terms, purports to repeal said 1913 Act, it creates a Commission with powers substantially identical with those of the 1913 Commission designed to regulate investment companies and their securities and dealers therein; all as in said Act 143 defined. That said 1915 Act provides for the preservation and continuance of the proceedings pending under the 1913 Act. That it is in effect an attempt to preserve said Commission of 1913 with all its powers, duties and proceedings though that Commission and that law had by this court been declared inoperative, void and invalid. That your orators being the plaintiffs at whose suit said former decree had been entered are entitled in this suit to the same relief as if they had in said former action petitioned the court for further relief therein and for the extension of the injunction therein issued against the said Michigan Securities Commission and the defendants herein attempting in any way to enforce said Act 46 of the Public Acts of 1915.

Your orators in this connection refer to the records and files in said Cause No. 33 and make them a part of this bill not, however, setting same out here at length.

40. Your orators charge that said Act 46 Public Acts of 1915, is unconstitutional and void and of no effect and is in violation of Section 21 of Article five of the Constitution of the State of Michigan which provides that no law shall embrace more than one object which shall be expressed in its title:

(a) In that the title of said Act includes as one object the prevention of fraud in the sale and disposition of stocks, bonds and other securities and likewise embraces a second object an inspection of the business of

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persons, firms, companies, associations selling or offering for sale such stocks, bonds and other securities.

(b) In that said Act in the title thereof, provides for the regulation of investment companies. That the Act itself provides for the regulation of manufacturing, transportation, mining and various other companies; that the title of said Act does not therefore express its object.

(c) In that said Act provides in Section 14 thereof that it shall be unlawful for any newspaper published in the State of Michigan to advertise the sale of any stocks, bonds or other securities which have not been approved by the Commission, or which are not exempt under the provisions of this Act. That said provision is not expressed in the title of said Act.

(d) In that the said Act forbids the taking of subscriptions for stock of corporations but such object is not set forth in its title.

(e) In that said act in the title thereof is entitled an act to prevent fraud, etc., and to provide for an inspection regulation and supervision of investment companies as there defined as may be necessary to prevent fraud. That said act in so far as it provides that the Commission may fix the amount of stock which a corporation may issue for property sets forth an object which is not expressed in its title.

41. Said Act is likewise unconstitutional and void and in violation of the 14th Amendment of the Federal Constitution which provides that no state shall make or enforce any laws which shall abridge the privileges and immunities of the citizens of the United States, nor shall any state deprive any person of life, liberty or property without due process of law, nor deny any personal equal protection of the law.

(a) Since said Act by its terms is applicable to stocks, bonds and other securities but is not applicable to unsecured commercial paper.

(b) Since said Act is by its terms applicable to secured commercial paper but is not applicable to unsecured commercial paper.

(c) Since said Act by its terms is not applicable to securities of state and national banks and trust companies but is applicable to banks other than state or national.

(d) Since said Act by its terms is not made applicable to building and loan associations but is applicable to other corporations incorporated to own, improve and deal in real property.

(e) Since said Act by its terms is made applicable to mortgage securities upon real property situated without the State of Michigan where the entire mortgage is sold and transferred with the notes secured by said mortgage, but said Act is not made applicable to mortgages upon real property situated within the State of Michigan, where the entire mortgage is sold and transferred with the notes secured by said mortgage.

(f) Since said Act by its terms is not applicable to mortgages upon real property situated within this state where the entire mortgage is sold and transferred with the notes secured by the mortgage, but is applicable to a mortgage on property within this state if said mortgage secures bonds and the entire mortgage is sold with all said bonds, or if said mortgage secures a note or notes and the entire mortgage is not sold with the note or notes.

(g) Since the said Act by its terms is made applicable to the stocks of investment companies as defined in said Act when the said stocks are sold by such companies or by agents thereof, but is not made applicable to the stock which is issued by such corporations and sold to its stockholders or to stock dividends.

(h) Since the Act by its terms forbids the taking subscriptions for stocks but does not forbid the sale of an increase of stock to those who are already stockholders.

(i) Since said Act, by its terms, is made applicable to the stock of any said investment company as defined in said Act when said stock is sold by said investment company or by its agents but is not made applicable to the stock of said Company when the same is issued to an original subscriber thereto.

(j) Since said Act is made applicable to investment companies as defined in said act when said investment companies sell or offer for sale an entire issue of its bonds, stocks or other securities when such sale or offer for sale is not made in course of continued and successive transactions of similar nature, but said Act is not made applicable to the sale of such stocks, bonds or other securities by the owner thereof when he sells such securities owned by him when such sale is not made in the course of continued and successive transactions of a similar nature.

(k) Since said Act is made applicable to the dealer, as therein defined, in stocks, bonds and other securities but is not made applicable to one who in a trust capacity

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created by law, lawfully sells any securities embraced in such trust.

(l) Since such Act is not applicable to securities which are listed in any standard manual of information approved by the Commission and it is applicable to securities not so listed, though the listing of such securities in such manual is not a finding as to their fraudulent character or whether or not their sale would work a fraud on the purchaser.

(m) Since said Act provides that the said Commission may appraise the property of a corporation and fix the amount of stock which may be issued thereof but does not provide that it may appraise the property of any other form of investment company nor fix the amount of securities other than stock which may be issued for property either of a corporation or of any other form of investment company as in said act defined.

42. That said Act 143 is unconstitutional and void and is in violation of Section 8 of Article 1 of the Constitution of the United States and of the 14th Amendment of said Constitution of the United States in that said Act does impose a burden upon interstate commerce in the following particulars:

(a) Said Act forbids the sale or attempt to sell of any stocks, bonds or other securities of any investment company, as defined in said Act, for a definite period of not less than 24 hours from and after the date on which said investment company shall have filed in the office of the Michigan Securities Commission, the statement and information required by said Act, and shall have otherwise conformed to said Act.

(b) Since said Act does prohibit the sale of stock, bonds and other securities of said investment companies in the State of Michigan unless said investment companies shall in all respects conform to the requirements of said Act.

(c) Said Act does forbid the sale or offer for sale or the taking of subscriptions for or negotiating for the sale in any manner of the stocks, bonds or other securities of said investment companies as defined in the Act until such investment companies, though they be persons or co-partnerships resident in and organized under the laws of another state or country and non-resident or not organized under the laws of the State of Michigan, shall have filed with the said Michigan Securities Commission the report and information required by said Act and

by said Commission, paid the fees in said Act prescribed and otherwise conformed thereto.

(d) Said Act does compel any person, firm, co-partnership, corporation or association not resident in Michigan, who shall there sell or offer for sale any securities of any investment company covered by said Act or who shall "by advertisement or otherwise profess to engage in the business of selling or offering for sale such securities" to make reports to said Securities Commission and pay certain fees. It forbids such persons, firms, co-partnerships, corporations or association under heavy penalties from selling securities unless they shall have in all respects complied with the law. It also forbids such sale or offer for sale within the State of Michigan whether the same be interstate or intrastate commerce.

In this respect your orators charge that stocks, bonds and other securities sold and offered for sale by your orators are legitimate articles of commerce and that the sale thereof in interstate commerce is not subject to regulation by the State of Michigan in any way whatsoever, and that the sale thereof by your orators to residents of the State of Michigan to be delivered in the State of Michigan, payment therefor to be made upon such delivery to your orators outside the State of Michigan is interstate commerce and the burdens and restrictions imposed on such sale are burdens upon interstate commerce and unreasonable burdens thereon and render said Act unconstitutional and void.

(e) Said Act purports to give the Commission power to appraise the property of a foreign investment company and to examine its affairs and to fix the amount of securities to be issued by any foreign corporation in payment for property and require the stocks and securities so issued for such property to be deposited in escrow on such terms as the Commission may require—such provisions or restrictions and burdens on interstate commerce and unreasonable restrictions and burdens thereon and so render the Act void and of no effect.

(f) Said Act likewise purports to empower said commission after the appraisal described in the last paragraph above to withhold its license to the said corporation to sell such stocks and bonds and securities as it may have issued in payment for property in excess of the value of such property as found by the commission unless or until the said securities are deposited in escrow on terms prescribed by the commission or unless the said excess amount thereof be surrendered to the corporation

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and cancelled by it. Said provisions are unreasonable burdens and restrictions on interstate commerce and render the said Act unconstitutional and void.

43. The said Act is likewise unconstitutional and void and in violation of the Fourteenth Amendment of the Constitution of the United States, since by its restrictions and regulations it deprives your orators and other persons similarly situated, of their property without due process of law, and denies to your orators and other persons similarly situated the equal protection of the laws, and denies to your orators and others the freedom of contract guaranteed by the said constitution.

(a) In that the said Act deprives your orators of the right to sell their securities in the State of Michigan unless the said securities commission determines, in its opinion, that said securities are not fraudulent or that the sale thereof will not work a fraud.

(b) In that the Act deprives your orators and other persons of the right of selling securities, except those exempted by the Act, until they have listed such securities with said commission and paid certain fees and secured the approval of the commission thereon.

(c) In that the said Act deprives your orators and any investment company as defined in said Act of the right to sell their or its stocks, bonds or other securities for a definite period of not less than 24 hours even though said investment company should conform in all respects to the requirements of said law.

(d) And it likewise denies the right of your orators and any investment company as defined in said Act from selling or disposing of its stocks, bonds or any security unless the said Commission shall be of the opinion that the sale of said stocks, bonds or other securities will not work a fraud on the purchaser—though in fact said stocks, bonds or other securities are not fraudulent and the sale thereof is without misrepresentation or fraud.

(e) That it likewise denies to your orators and to any investment company as therein defined the right to sell, and to any person, the right to purchase of your orators or of any such investment company, any of the stocks, bonds or other securities not exempted by the Act if said purchase will in the opinion of the Securities Commission work a fraud on the purchaser, irrespective of the price at which said securities shall be sold and irrespective of the probability that such purchase may result in profit to said purchaser.

(f) It denies to your orators and to any said "investment company" the right to sell any such stocks, bonds or other securities if same will in the opinion of the commission work a fraud upon the purchaser even though such "investment company" or your orators shall sell same without misrepresentation and after having truthfully set forth all the facts in relation thereto to the purchaser thereof.

44. That said Act is likewise unconstitutional and void and in violation of Section 16 of Article II of the Michigan Constitution and of the Fourteenth Amendment of the Constitution of the United States since it does deprive your orators and persons similarly situated of their property without due process of law; inasmuch as the restrictions and conditions prescribed by the Act are not within any power of the State of Michigan to impose and are not within the police power of the said State, in this respect:

(a) That said restrictions and conditions imposed by said Act are not necessary to protect the health, safety, morals and welfare of the people of the State of Michigan.

(b) That such conditions and restrictions as are by said Act imposed are not reasonable to protect the health, safety, morals and essential welfare of the said people of the State of Michigan, since such restrictions and regulations are imposed upon the business of selling all securities of every kind except as exempted in said Act and will seriously impede business and commerce and seriously interfere with business and commerce of every kind whatsoever by preventing the free purchase of said securities and the free investment in the stocks and bonds and securities covered by the Act.

45. That the provisions in said Act in Section 8 thereof is likewise unconstitutional and void.

(a) Said section provides that said commission may cause an appraisal to be made of any investment company seeking to come under the Act and may fix the amount of stocks bonds and securities that shall be issued by such corporation in payment of such property at the value it shall so appraise said property and may require such stocks and securities to be deposited in escrow on such terms as it may prescribe. It may likewise withhold its license to said corporation to sell such securities unless said securities which may have been issued in excess of the value fixed by the commission shall be either surrendered to said corporation or cancelled by

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it or deposited in escrow as the commission shall prescribe.

The aforesaid provision is in absolute prohibition of the sale of stock paid for in property unless the commission approves the value of said property as equal to the par of the stock issued therefor.

The said prohibition of such sale is not based on fraud in said stock or the fraudulent character thereof or fraud in the sale thereof, but upon the opinion of the commission as to the value of the property for which it is issued.

The test to be applied by the commission is not fraud or the probability of fraud, but the probability of loss.

The said provision contravenes the Fourteenth Amendment of the Constitution of the United States and the 16th Section of the Constitution of Michigan.

(b) That said Act is likewise unconstitutional and void and in violation of the 14th Amendment of the Constitution of the United States in that it provides that the said commission may cause an appraisal to be made at the expense of the investment company of its property and may fix the amount of stocks, bonds and other securities which may be issued by said investment company, foreign or domestic, for such property and may require such securities to be deposited in escrow under such terms as it may prescribe and may withhold the license to sell such securities if said company has issued same in excess of the value of said property as fixed by the commission unless said securities shall be surrendered and cancelled or deposited in escrow under the terms prescribed by the said commission.

Your orators charge that the making of such appraisal constitutes a taking of property without due process of law. That the investment companies as described in said Act have acquired in their charters the right to issue securities to the amount there set forth and the requirement that said stock be delivered up and cancelled or placed in escrow is likewise a taking of property without due process of law.

They show that the right to dispose of stocks and securities paid for in property as provided in the statutes and set forth in the charter of said investment companies is a right which cannot be abridged by a requirement that such stocks or securities shall be surrendered or deposited in escrow at the will of or upon the terms prescribed by the commission.

46. That said Act is likewise unconstitutional and void and in violation of Section 16, Article II of the Michigan Constitution and of the Fourteenth Amendment to the Constitution of the United States.

(a) Since said Act purports to regulate and restrict the right of the corporations, co-partnerships, associations, persons and firms who by said Act are defined as "dealers" and provides that the said dealers shall not sell nor offer for sale any securities nor profess the business of selling or offering for sale any securities covered by the Act unless such dealers shall have otherwise complied with the requirements of said Act; that insofar as said Act attempts to classify and define said dealers in said securities it is unconstitutional and void, inasmuch as it denies to said dealers as therein defined the equal protection of the law; that in defining and classifying those who sell or offer for sale any of the stocks, bonds or securities issued by investment companies as defined in the Act, said classification is unreasonable, invalid and void.

(b) Since said Act purports to prohibit any "dealers" as therein defined from selling or offering for sale any stocks, bonds or other securities covered by said Act unless said dealers shall furnish the said commission a statement as to their names and addresses, the general character of the securities to be dealt in by them, the place of their office in Michigan; and such additional information as the commission may deem necessary and that such dealer shall likewise file with said securities commission an appointment of the commissioner of the State Banking Department as his agent in Michigan for the service of process.

47. Said Act is likewise unconstitutional and void and in violation of the Constitution of the State of Michigan and of the Constitution of the United States in that the powers and duties conferred upon the said Michigan Securities Commission involve the delegation of legislative power to the said commission. Said Act confers upon the said commission the power to determine whether the proposed plan of business or the proposed stocks, bonds, and other securities of the said investment companies or of your said orators is or is not fraudulent. It likewise confers upon the said commission power to determine whether the sale of said contracts and securities of your orators as a said investment company would "in the opinion of said commission" work a fraud on the purchaser thereof.

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That the said Act in no respect determines the standard of what is or is not fraudulent and in no respect determines what securities would be fraudulent and in no respect determines what would be the nature and character of securities the sale of which would in the opinion of said commission work a fraud.

But said Act on the other hand confers upon the commission the power to fix, by its opinion, what is or is not fraudulent.

Insofar as said Act does not determine the standard by which said plan of business and said securities are in this respect to be adjudged, it is a delegation of a legislative power, and therefore, void.

48. That the said Act is likewise unconstitutional and void and in violation of the Constitution of the United States and of the State of Michigan, inasmuch as it confers upon the said Michigan Securities Commission the authority and power to determine what is a fraudulent plan of business, a "fraudulent security" and a security the sale of which will work a fraud." That thereby it confers upon said commission judicial authority; that said commission is not a judicial body, within the provisions of the Constitution of the State of Michigan and of the United States, and the delegation thereto of judicial power to determine the questions as above set forth is in violation of said Constitution and the said Act, therefore is void.

49. That the said Act is likewise unconstitutional and void and in violation of the 14th Amendment to the Constitution of the United States in that it denies to your orators and to investment companies made by its terms subject thereto, the right to a judicial investigation by due process of law of the facts as to whether or not the plan of business of any investment company is or is not fraudulent; as to whether or not the securities issued thereby are or are not fraudulent, or whether such securities are or are not of such a nature that their sale will work a fraud upon the purchaser.

50. That said Act is likewise unconstitutional and void, in that it denies the due process of law guaranteed by the Constitution of the United States to your orators and to said investment companies in that the determination of the said commission upon the question as to whether or not the plan of said investment company is fraudulent and whether its securities are fraudulent, or that they will in all probability work a fraud upon the purchaser thereof is final; and that the said Act does

not provide an appeal from the said finding and decision of the said commission. That it provides for a review of such findings by certiorari only. That the said Act does in effect provide that the commission shall conclusively determine the questions of fact which may be submitted to it in the course of investigation of the said plan of the business of said investment company and of its securities.

51. That said Act is likewise unconstitutional and void and in violation of the 14th amendment of the Constitution of the United States in that it deprives your orators and investment companies and others similarly situated of liberty and property without the due process of law and denies to your orators and said investment companies and others equal protection of the law, since said Act provides that said defendants and the Michigan Securities Commission, its clerks, accountants and examiners may examine the business of said investment companies and their accounts, may require them to divulge any and all facts in connection with said business whether or not the same relates in any way to the securities proposed to be sold in Michigan.

Your orators show that said defendants have announced what facts and information in connection with said business the said commission would require in its preliminary statement upon which the securities of said investment companies and others similarly situated will or will not be listed by said commission and that many of such facts of such information do not relate to the question of whether or not such securities are fraudulent or as to whether their sale would work a fraud. Nevertheless said Act does further provide that all such information obtained by said commission and all the records of the commission in regard thereto shall be open to examination by the public.

Whereas your orators charge that their information as to the said business of said investment companies their contracts with their employees and with others, their knowledge as to the methods by which they transact their affairs, their knowledge as to the credits of their customers, their general information as to the conduct of their business, the prices and the costs of the products which they sell each and all are property rights of value to said investment companies and the publication of information thereto as to said business deprives them of valuable rights, seriously damages them in their business and will otherwise cause them damage and loss.

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52. That said Act is likewise unconstitutional and void in that it subjects your orators and investment companies and others similarly situated to cruel and unusual punishments in violation of Article 8 of the Constitution of the State of Michigan in that it prescribes as penalty for the sale or offer for sale of any of the stocks, bonds or other securities of investment companies, unless said companies shall have complied with the provisions of the Act and unless your orator and the dealers described in said Act shall have registered with the commission as prescribed and provided and provides that the said violation of the Act in that respect shall be a misdemeanor and any person who has so violated said Act shall upon conviction thereof be fined not more than $1000.00 or imprisoned in the county jail for not more than one year or both and any intention to defraud any purchaser of stocks bonds or other securities or any intention to wilfully violate said Act is not required to make said violation a misdemeanor.

That any person who shall knowingly or wilfully make or cause to be made any false statements or false entries in the books of the company shall likewise be guilty of a felony and any person who shall exhibit any false paper with the intention of or for the purpose of deceiving any person authorized to investigate said investment company's affairs or who shall make any false statements relative to the securities of same shall likewise be guilty of a misdemeanor and upon conviction shall be fined not more than $1,000 or imprisoned in the county jail for not more than one year, or both. That by the statute of the State of Michigan, making false statements in reference to the condition of any corporation is already made a crime and made punishable under the law of said state by heavy penalties.

53. That said Act is likewise unconstitutional and void, since it prescribes extraordinary and unusual punishment and penalties for violation thereof, and provides penalties of fines or imprisonment in the county jail for the sale or offer for sale of any of the securities covered by said Act, and provides other penalties, fines and imprisonments, all of which are so extreme and cumulative that they prevent any person, firm or corporation, as described in said Act, or a dealer as therein described, from challenging the validity of said Act in the courts, and necessarily constrain all persons to submit to the provisions of said Act rather than take the chance of the penalties imposed. That therefore said Act in that

respect deprives your orators and other persons similarly situated of the equal protection of the law guaranteed to it by the Constitution of the United States.

54. Your orators further charge that said Act declares that all proceedings pending before the Michigan Securities Commission created by Act 143 of the Public Acts of 1913 shall be continued by said Act 46 of 1915, and all actions civil and criminal pending under said Act 143 of 1913 shall be continued and completed under said Act 46.

Your orator charges, however, that said Act 143 of the Public Acts of 1913 has been declared and decreed to be unconstitutional and void by the District Court of the United States for the Eastern District of Michigan in a suit entitled the Alabama and New Orleans Transportation Company et al. vs. Edward J. Doyle et al., being Equity Cause No. 33, on the docket of said court. That the opinion in said cause is reported in 210 Federal Reporter, 173. All of which records and files and said opinion are as hereinbefore set forth and made a part of this bill of complaint. That by said decree said Act 143 of 1913 was declared null and void and of no effect whatsoever. That the said Michigan Securities Commission created by said Act 143, have no valid constitutional authority either as to investment companies as there defined resident in Michigan or as to non-resident investment companies or as to dealers as defined in said Act or as to your orators—and any pretended authority of any kind in said Commission is contrary to law. The proceedings of said former commission cannot therefore be continued or the actions brought under said former Act completed. And said Act 46 of 1915 insofar as it attempts to validate such void and invalid proceedings and acts of said former commission is now of no effect whatsoever.

55. Your orators charge that it is their desire and right to offer their stock, bonds and other securities for sale in the State of Michigan by themselves or through brokers and that it is the avowed purpose of the said defendants herein to prevent such sale and offer for sale unless your orators and such other persons shall have complied in all respects to the requirements of said Act and the requirements of said defendants.

56. That immediate and irreparable injury will be caused to your orators by reason of the enforcement of said Act and particularly by the fact that your orators, their agents and employees will be prevented by said Act from selling the said securities in Michigan except

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in compliance with said Act and not at all for at least 24 hours after listing same as provided in said Act.

57. That to prevent the immediate and irreparable injury and the continuing wrong which will necessarily arise by the conduct of said defendants in the enforcement made by said defendants and the Michigan Securities Commission and to prevent a multiplicity of suits against your orators, their officers, agents and employees, brokers and dealers in said securities and owners of said securities, desiring and intending to offer same for sale through dealers and agents and against investment companies desiring to sell their securities and investment companies whose securities your orators desire to sell and that to prevent prosecution under said Act and the imposition of the heavy penalties described by the Act and to prevent such injury to persons intending and desiring to purchase such securities, a writ of injunction is necessary to restrain the said defendants from interfering with your orators and other persons similarly situated and agents and employees of your orators, dealers in said stocks, bonds and other securities and any and all persons, owners of said securities, who may desire to sell same in a manner not permitted by said Act.

58. That the value of the matters herein disputed, the loss which each of your orators are sustaining and will sustain by the enforcement of said Act and the damage to each of your orators' businesses as hereinbefore set forth will be to greatly exceed the sum of five thousand dollars, exclusive of interest and costs.

59. Forasmuch, therefore, as your orators have no remedy in the premises save in a Court of Equity, your orators pray the aid of the court:

(a) To the end that the said Frank W. Merrick, John W. Haarer, and Grant Fellows, defendants herein, may without oath (answer on oath being expressly waived), full, true, direct and perfect answer make to all and singular the matters and things hereinbefore stated and charged.

(b) And to the end that said Act 46 of the Public Acts of 1915 may be decreed to be unconstitutional and void and of no effect whatsoever.

(c) And to the end that your orators and their agents, employees and brokers and the dealers in said stocks, bonds and other securities may be decreed to have the right to sell and offer for sale the said stocks, bonds and other securities, without compliance in any way with the regulations and restrictions in said Act set forth.

(d) And that your orators, their officers, agents and employees and those who may sell or offer for sale or profess to sell said stocks, bonds and other securities of your orators, may be secured against unlawful and illegal trespasses and arrests by reason of any alleged violation of said Act.

And that the said Frank W. Merrick, John W. Haarer and Grant Fellows, their agents and employees of every kind whatsoever and the agents and employees of said Michigan Securities Commission may be perpetually and forever restrained by the order and injunction of this court from:

(a) Enforcing and attempting to enforce any of the provisions of said Act 46 of the Public Acts of 1915 and

(b) From hindering or in any way whatsoever attempting to hinder the sale or offer for sale of the stocks, bonds and securities of your orators whether such sale or offer for sale be made by your orators or by any other person whatsoever.

(c) From beginning any action of any nature whatsoever against your orators, their officer, agents and employees, or against any other person to prevent or hinder in any way the sale of the stocks, bonds and other securities in the State of Michigan.

(d) From publishing any information as to the stocks, bonds or other securities owned or dealt in by your orators.

(e) From arresting or causing the arrest of any officer, agent or employee of your orators, or any person who may within the State of Michigan sell, offer for sale, take subscriptions for or negotiate for the sale in any manner, or profess to sell any of the stocks, bonds or other securities owned or dealt in by your orators.

And that said defendants and each and all of them may be in the meantime so restrained during the pendency of this suit.

And that your orators may have such other relief as may be agreeable to equity and good conscience.

N. W. Halsey & Co.
By H. W. Stuart, President.
Continental and Commercial Trust and
Savings Bank, Chicago,
By Henry C. Olcott,
Manager Bond Department.

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Arthur B. Leach, Ferry W. Leach and George B. Olmstead, a Co-partnership doing business as A. B. Leach & Co.,

By F. W. Leach.

Lee Higginson & Co. and Henry L. Higginson, James J. Storrow, Geo. C. Lee, N. Penrose Hallowell, Hugh G. Levick, Charles H. Schweppe, Francis L. Higginson, Jr., Fred'k W. Allen, David Shaw and A. James Sheldon,

By Samuel W. White, Their Agent.

Beaumont, Smith & Harris,
Solicitors for Plaintiffs,
Address: Ford Building, Detroit, Michigan.

State of Illinois, County of Cook, ss.

Harold L. Stuart, being duly sworn deposes and says that he is President of N. W. Halsey & Company, one of the plaintiffs above named, that he is authorized to sign the foregoing Bill of Complaint for the said complainant for said plaintiff, N. W. Halsey & Company, that he has heard same read and that the same is true except as the matters therein stated to be on information and belief, and as to those he believes it to be true.

Harold L. Stuart.

Subscribed and sworn to before me this 27th day of August, 1915.

Robert A. Jamieson,
(Notarial Seal.) Notary Public.
My Commission expires July 21, 1917.

State of Illinois, County of Cook, ss.

Henry C. Olcott, being duly sworn deposes and says that he is Manager of the Bond Department of the Continental and Commercial Trust & Savings Bank one of the plaintiffs above named, that he is authorized to sign the foregoing bill of complaint for the said plaintiff, that he has heard same read and that the same is true except as the matters therein stated to be on information and belief, and as to those he believes is to be true.

Henry C. Olcott.

Subscribed and sworn to before me this 27th day of August, 1915.

W. F. Furbeck,
(Notarial Seal.) Notary Public.

State of Illinois, County of Cook, ss:

Ferry W. Leach, being duly sworn deposes and says that he is one of the partners of the firm of A. B. Leach & Company and one of the plaintiffs above named, that he is authorized to sign the foregoing bill of complaint for the said plaintiffs, partners in A. B. Leach & Company that he has heard same read and that the same is true except as the matters therein stated to be on information and belief and as to those he believes it to be true.

Ferry W. Leach.

Subscribed and Sworn to before me this 27th day of August, 1915.

Harry L. Jewel,
(Notarial Seal.) Notary Public.

State of Illinois, County of Cook, ss.

Samuel W. White, being duly sworn deposes and says that he is agent, at Chicago, Illinois, for Lee Higginson and Company, and one of the plaintiffs above named, that he is authorized to sign the foregoing Bill of Complaint for the said plaintiff, Lee Higginson & Company and the partners in said Lee Higginson & Company as set forth in said bill, that he has heard same read and that the same is true except as the matters therein stated to be on information and belief, and as to those he believes it to be true.

Samuel W. White.

Subscribed and sworn to before me this 27th day of August, 1915.

Claude B. Cumnock,
(Notarial Seal.) Notary Public.
My Commission expires Oct. 22, 1916.

Exhibit "A," (Act No. 46 of Michigan Public Acts of 1915.)

Exhibit "B," (Blanks for Statements Required from Investment Companies.)

Form No. 9, Register of Companies' Agents in State.

Form No. 2, Consent Under Section 6, Act 46, Public Acts 1915.

Form No. 3, Appointment of Commissioner of State Banking Dept. etc.

Exhibit "D" (Form No. 5, Dealer's Application for Registration with Michigan Securities Commission.)

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(Copies of above named Exhibits and Forms attached to Bill of Complaint in Case No. 132, See page No. .... of Appeal Record.)

RETURN ON SERVICE OF WRIT.
(Filed Sept. 14, 1915.)

United States of America, Eastern District of Michigan, ss:

I hereby certify and return that I served the within Bill of Complaint on the therein-named Grant Fellows by handing to and leaving a copy thereof with him personally at Lansing in said District on the 4th day of September, A. D. 1915.

Henry Behrendt,
U. S. Marshal.
By.....
Deputy.

RETURN ON SERVICE OF WRIT.
(Filed Sept. 14, 1915.)

United States of America, Eastern District of Michigan, ss:

I hereby certify and return that I served the within Bill of Complaint on the therein-named Frank W. Merrick by handing to and leaving a copy thereof with him personally at Lansing in said District on the 8th day of September, A. D. 1915.

Henry Behrendt.
U. S. Marshal.
By.....
Deputy.

RETURN ON SERVICE OF WRIT.
(Filed Sept. 14, 1915.)

United States of America, Eastern District of Michigan, ss:

I hereby certify and return that I served the within Bill of Complaint on the therein-named John W. Haarer by handing to and leaving a copy thereof with him personally at Lansing in said District on the 7th day of September, A. D. 1915.

Henry Behrendt.
U. S. Marshal.
By.....
Deputy.

CHANCERY SUBPOENA.

(Returned, Served and Filed Sept. 14, 1915.)

District Court of the United States of America, For the Sixth Circuit and Eastern District of Michigan, Sitting in Chancery.

The President of the United States of America,

To Frank W. Merrick, Commissioner of Banking of the State of Michigan, at Lansing; John W. Haarer, Treasurer of the State of Michigan, at Lansing; and Grant Fellows, Attorney General of Michigan, residing at Hudson, Michigan, said three above named parties constitute the Michigan Securities Commission, citizens of the State and residents of the Eastern District of Michigan.

You are hereby commanded to be and appear in the District Court of the United States of America for the Sixth Circuit and Eastern District of Michigan, sitting in Chancery, before the Judges thereof, at the District Court Room, in the City of Detroit, Michigan, within twenty days from the date hereof, then and there to answer unto a Bill of Complaint exhibited against you as defendants by N. W. Halsey & Company and Continental & Commercial Trust & Savings Bank, Corporations organized and existing under the laws of the State of Illinois, having their principal office and place of business, at Chicago, being citizens and residents of said State; Arthur B. Leach of South Orange, N. J., Ferry W. Leach of Oak Park, Ill., and George G. Olmstead of Chicago, Ill., Co-partners doing business under the firm name of A. B. Leach & Co., with their principal offices at N. Y., N. Y., and Chicago, Ill., Henry L. Higginson, James J. Storrow and Francis L. Higginson, Jr., residents and citizens of Boston, Mass.; Geo. C. Lee of Westwood, Mass.; N. Penrose Hallowell of Readville, Mass.; Hugh G. Levick of Farmington, Mass.; A. James Sheldon and Frederick W. Allen of New York City, N. Y., and Charles H. Schweppe of Chicago, Ill., and David Shaw, Andover, Mass., as Complainants And this you shall in no wise omit under the penalty of One Thousand Dollars.

Witness, The Hon. Arthur J. Tuttle, United States District Judge for the Eastern District of Michigan, this twenty-eighth day of August, in the year of our Lord one thousand nine hundred and fifteen and of the Independence of the United States the one hundred and fortieth.

Elmer W. Voorheis, Clerk.
By Carrie Davison, Deputy.

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Memorandum.—The above named defendants are required to file their answer or other defense in this suit with the Clerk of this Court, at his office in the City of Detroit, Michigan, on or before twenty days after service of this Writ of Subpoena, excluding the day of service thereof, otherwise the Bill of Complaint may be taken pro confesso against said defendant.

Elmer W. Voorheis, Clerk.
By Carrie Davison, Deputy.

A True Copy.
Attest:.....United States Marshall, by.....Deputy.

RETURN ON SERVICE OF WRIT.

United States of America, Eastern District of Michigan, ss:

I hereby certify and return that I served the annexed Chancery Subpoena on the therein-named Grant Fellows by handing to and leaving a true and correct copy thereof with him personally at Lansing in said District on the 4th day of September, A. D. 1915.

Henry Behrendt, U. S. Marshal.
By .....
Deputy.

RETURN ON SERVICE OF WRIT.

United States of America, Eastern District of Michigan, ss:

I hereby certify and return that I served the annexed Chancery Subpoena on the therein-named John W. Haarer by handing to and leaving a true and correct copy thereof with him personally at Lansing in said District on the 7th day of September, A. D. 1915.

Henry Behrendt, U. S. Marshal.
By .....
Deputy.

RETURN ON SERVICE OF WRIT.

United States of America, Eastern District of Michigan, ss:

I hereby certify and return that I served the annexed Chancery Subpoena on the therein-named Frank W. Merrick by handing to and leaving a true and correct copy thereof with him personally at Lansing in said District on the 8th day of September, A. D. 1915.

Henry Behrendt, U. S. Marshal.
By .....
Deputy.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION.

In Equity.

No. 132.

The Weis Fibre Container Corporation, a South Dakota Corporation,

Plaintiff,

vs.

Frank W. Merrick, John W. Haarer and Grant Fellows,

Defendants.

BILL OF COMPLAINT.
(Filed August 28, 1915.)

To the Honorable, the Judge of the District Court of the United States for the Eastern District of Michigan, Southern Division:

The Weis Fibre Container Corporation brings this, its Bill of Complaint, against Frank W. Merrick, John W. Haarer and Grant Fellows, and thereupon said plaintiff complains and alleges:—

1. That said plaintiff is and has been for some time past, a corporation, organized and existing under the laws of the State of South Dakota, and having its principal office and principal place of business at the City of Huron, North Dakota, and being a citizen of said State of North Dakota and a resident of the District thereof.

2. That at this date and heretofore the said Frank W. Merrick, John W. Haarer and Grant Fellows, are and have been residents and citizens of the Eastern District of Michigan, the said Frank W. Merrick residing at Lansing, Michigan, the said John W. Haarer at Lansing, Michigan, and the said Grant Fellows at Hudson, Michigan.

That the said Frank W. Merrick is Commissioner of Banking of the State of Michigan, John W. Haarer, Treasurer thereof, and Grant Fellows, Attorney General thereof.

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That the said Frank W. Merrick, John W. Haarer and Grant Fellows constitute the Michigan Securities Commission as hereinafter described and set forth.

3. That your orator is incorporated under the laws of South Dakota with a capital stock of Two Million ($2,000,000.00) Dollars, all of which is common stock, and of which One Million One hundred nineteen thousand ($1,119,000.) Dollars has been issued. That the purpose of your orator is to manufacture, buy and sell paper, paper or fibre containers and certain other similar products. That your orator is not an investment company but is a manufacturing company; that the issue of its securities is not supervised or regulated by any public service board or commission; that the proceeds of its stock and securities are employed in the prosecution of its business and are not otherwise invested.

4. That of its said capital of Two Million ($2,000,000) Dollars, One Million and Seventy-five Thousand ($1,075,000) Dollars has been paid for by the transfer, to said corporation of certain property in the manner approved by the statutes of South Dakota. And your orator has complied with the statutes of Michigan relating to foreign corporations desiring to do business in Michigan and is duly authorized to do business therein.

5. That your orator is solvent and the business of your orator is profitable; that its property is ample to discharge all its obligations and that its stock is valuable.

6. Your orator shows that in the operation of its business it has acquired a valuable good will and has developed methods of operating its business which are valuable to it; that it possesses valuable information as to the business of manufacturing said fibre containers; that it owns valuable patents in relation thereto. That it has made valuable arrangements with the its employees, and has valuable information as to the cost of its manufacturing operations, all of which are valuable property rights to your orator.

7. Your orator shows that it has offered for sale its said stock and has offered the same for sale in Michigan, both itself, and through its agents and employees; that it still desires to sell an additional amount of said stock that is as yet unissued.

8. Your orator shows that the plan of business of your said orator is not fraudulent and that it is not of such a nature that the sale of its said stock will work a fraud on the purchaser. That on the other hand said

plan of business and said stock will, in all probability, bring profit to the purchaser of said stock. That all the representations which your orator has made as to stock are true and that the representations and statements that are being made in connection with the sale and offering for sale of said stock in the State of Michigan are true.

9. Your orator further shows that it has solicited various persons within the State of Michigan to offer said stock for sale in Michigan, and that they have informed your orator that said stocks cannot be sold in Michigan unless full compliance is made by your orator with the provisions of Act Number 46 of the Public Acts of 1915 of the State of Michigan, which has become effectual in the State of Michigan upon the 20th day of August, 1915. That a copy of said Act is attached hereto and marked Exhibit "A" and made a part of this your orator's bill of complaint.

10. Your orator shows that said Act 46 of the Public Acts of 1915 of the Legislature of the State of Michigan is entitled to "And Act to prevent fraud in the sale and disposition of stocks, bonds or other securities sold or offered for sale within the State of Michigan by any dealer, firm, company, association or corporation, foreign or domestic, by requiring an inspection of such stocks, bonds, or other securities and an inspection of the business of such persons, firms, companies, associations or corporations, including dealers and agents, and such regulation and supervision of the business of said persons, firms, companies, associations, or corporations, including dealers and agents as may be necessary to prevent fraud in the sale within the State, of any stocks, bonds or other securities, and to provide a penalty for the violation thereof, and to repeal act number one hundred forty-three of the Public Acts of Nineteen hundred Thirteen, approved May Two, Nineteen Hundred Thirteen, and all other acts or parts of acts inconsistent herewith."

11. That said Act 46 of the Public Acts of 1915 purports to create a Commission to be known as the Michigan Securities Commission composed of, the Commissioner of the State Banking Department, the State Treasurer and the Attorney General of the State (Section 1), which Commission is by said Act given power, and upon it is imposed the duty to administer and to provide for the enforcement of the provisions of the

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said Act; that said Act purports to define foreign and domestic investment companies, and to include in such definition every person, corporation, co-partnership, company or association organized under the laws of any state, territory or government, which shall by itself or by or through others sell or negotiate for the sale of any stocks, bonds or other securities, issued by him, it or them within the State of Michigan (Section 2). That said Act does, however, exempt from the provisions certain securities which are listed in detail in Section 3 thereof to which Section reference is hereby made. That the said Michigan Securities Commission created by said Act does, as your orator is informed and believes, construe the said Act to embrace within such definition of said investment companies, any person, corporation or co-partnership, company or association which shall by itself or through others, sell or negotiate for the sale of any stocks, bonds or other securities issued by him, it or them, within the State of Michigan and not therein specifically exempted, and does include therein your orator as such an investment company. That said act does likewise purport to make said Michigan Securities Commission the successor of the Michigan Securities created by Act 143 of the public acts of 1913 and provides that all proceedings pending before said last named commission and all actions both civil and criminal pending under said act shall be confined and completed under said Act 46 of the Public Acts of 1915.

12. That said Act likewise does provide that before selling, offering for sale, taking subscriptions for or negotiating for the sale in any manner whatever in this State any stocks, bonds or other security of its own issue, the investment company, whether domestic or foreign, shall file with the Michigan Securities Commission, certain statements and documents specifically provided for, and described in Section 4 of said Act, which statements and documents shall be authenticated as therein provided, and shall contain a statement showing in full detail the plan upon which it proposes to transact business such itemized accounts of its financial condition, assets and liabilities, and such information as to its business and affairs as is required by said Act, including a copy of its prospectus and proposed advertisements. That the said Act likewise provides for the payment of certain fees to the said Michigan Securities Commission, likewise to be paid before selling, offering for sale, taking subscriptions for or negotiating for the

sale, in any manner, any such stocks, bonds or other securities.

13. That the said Act likewise provides, that also, before offering for sale any of such stocks, bonds or other securities within the State of Michigan, the Company so offering same for sale shall file its irrevocable consent that suits and actions may be commenced against it in the court of any County in such State of Michigan where a cause of action may arise or in which the plaintiff may reside, by service of any process or pleading authorized by the laws of Michigan on the Commissioner of the State Banking Department (Section 6).

14. That said Act further provides in Section 7 thereof that application of such investment company shall be heard by the Commission at its next regular monthly meeting, providing that the filing of such application shall precede such meeting by 24 hours, or at an adjourned or special meeting on 2 days notice to the applicant.

15. That said Act likewise provides that said Commission may demand from such investment company any further information which may be necessary to enable the Commission to pass on the questions which may come before it. That said Commission may cause an appraisal to be made of the property of said investment company (Section 8) and may fix the amount of stocks, bonds and securities which shall be issued by any corporation, foreign or domestic, in payment of property, patents, good-will, promotion and intangible assets at the value it shall find the same to be worth and may require that such stocks and securities so issued shall be deposited in escrow under such terms as the Commission shall prescribe. That it likewise provides that said Commission may withhold the license of such corporation to sell such stocks and securities if said corporation has issued securities in payment for property, patents, good-will, promotion and intangible assets in excess of the value fixed by the Commission or if such securities are not deposited in escrow as required by the Commission, until such securities in excess of the value found by the Commission have been surrendered to the corporation and cancelled by it and until the stock has been deposited in escrow as prescribed by the Commission.

16. That said Act does further provide, in Section 9 thereof, that upon the filing of said statements and documents with the said Michigan Securities Commis-

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sion, as provided in the preceding Sections of said Act, and upon an examination by the Commission of the business and affairs of the Company, and upon the filing of such statements and documents which the aforesaid Commission shall deem it advisable to have filed, the said Commission shall examine such statements and the results of such investigation and if, after such examination, as in said Act provided, said Commission shall find that the proposed plan of business or its proposed contracts, stocks, bonds or other securities are fraudulent, or that its proposed contracts, stocks, bonds or other securities are of such a nature that the sale of said contracts, stocks or bonds or other securities would, in the opinion of the Commission, work a fraud upon the purchaser thereof, then the said Michigan Securities Commission shall disapprove the sale of such contracts, stocks, bonds or other securities and shall notify said company by registered mail, of its findings and disapproval, and it shall be unlawful for said company to do any business in the way of selling or offering for sale such securities within said state. That however if the said Commission shall not find that the proposed plan of said investment company or its proposed securities are fraudulent or are of such a nature that their sale would, in the opinon of the Commission, work a fraud on the purchaser, then it shall approve the sale of such stocks and shall issue a certificate in the form prescribed by the statute.

17. Said Act likewise provides among other things, and particularly in Section 10 thereof, that any person, corporation or co-partnership which is not the issuer of such securities but which shall in this state sell or offer for sale any of the securities of any investment company as in said Act defined, except such securities as are specifically exempted in the Act or which shall by advertisement or otherwise, profess to engage in the business of selling or offering for sale such securities shall be deemed to be a "dealer" in such securities and that no such dealer shall sell or offer for sale any such securities or profess the business of selling or offering for sale such securities, unless he shall have filed a list of same with the Commission.

It further provides that the term "dealer" shall not include the owner of such securities who sells securities owned by him when such sale is not in the course of continued and successive transaction of a similar nature, nor shall it include one who in a trust capacity, created

by law, lawfully sells any securities embraced in said trust.

It further provides that any dealer desiring to sell the securities of an investment company shall register both himself and his agents with the said Commission, furnish it certain information required by it and pay to it certain fees both for said dealer and any agents thereof (Section 11).

That if said dealer shall be a non-resident of the state he shall file an irrevocable appointment of the Commissioner of the State Banking Department of Michigan as his or its agent in Michigan for the service of process.

Said Act further provides, as to said dealers, by Section 15 thereof that no dealer, as defined by the Act, shall sell or offer for sale any securities unless the provisions of the Act shall have been complied with as to such securities or until he shall have registered with the Commission; such dealer, if the investment company issuing the securities which the dealer desires to sell, has not itself complied with the Act may make application to the Commission for license to sell said securities in the manner provided for applications by the investment company.

18. Said Act likewise provides in Section 13 thereof that the general accounts of every investment company as defined in said Act shall be kept in sufficient detail so that the Commission can ascertain at any time its financial condition and that such books of account at all times during business hours except on Sundays and Holidays shall be open to stockholders and investors in said Company and the said Commission or its representatives.

19. Said Act likewise provides that all such investment companies as therein defined shall be subject to examination by the Commission or any member thereof at any time said Commission shall deem it advisable and shall pay a fee for such examination, and the expenses of such examiners: and that their failure to pay such fee shall forfeit their right to sell their securities within the State of Michigan.

That if upon any such examination it shall be made to appear to said Commission that further sale of the securities of such company would work a fraud on the purchaser, then the Commission may revoke the license of said investment company, on notice duly given and hearing had, and may, pending such hearing, suspend

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20. That the said Act provides in Section 14 thereof, that it shall be unlawful for any such investment company, dealer or representative thereof either directly or indirectly to sell, offer for sale, take subscriptions for or negotiate for the sale in any manner of such stocks, bonds, or other securities except as in said Act exempted unless and until the said Commission has approved the same and issued its certificate of such approval. That said Act likewise provides that it shall be unlawful for any such investment company to transact business on any other plan than is set forth in the statements and papers required to be filed by said Act.

That said Act likewise provides that it shall be unlawful for any investment company or dealer to issue, circulate or deliver any prospectus or advertisement differing from the copy filed with the Commission. That said Act likewise makes it unlawful for any newspaper to advertise the sale of any stocks, bonds or securities not approved by the Commission and not exempt under the Act.

21. Said Act also provides in Section 16 thereof that all the information obtained by the Commission with reference to such security, and all its records in reference thereto shall be open to the public and that it may from time to time issue, in pamphlet form or in newspaper advertisements, or otherwise, such information as it deems would be of public interest with reference to the securities sold or offered for sale within the state.

22. Said Act likewise provides in Section 17 thereof that it shall not be construed to repeal or modify any laws giving the State Banking Department control and supervision over State banks and the business of banking or the Commissioner of Insurance control and supervision over the business of insurance in this state.

23. Said Act likewise provides in Section 19 thereof, that any person who shall knowingly or willfully subscribe to or make or cause to be made any false statement or false entry in any book of any investment company with the intention or for the purpose of deceiving any person authorized to examine the affairs of such company or shall make or publish any false statement of the financial condition of such company or false statement relative to its securities shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not more than $1,000.00 or imprisoned in the County Jail

for not more than one year, or both such fine and imprisonment.

24. Said Act likewise provides in Section 20 thereof that the said Michigan Securities Commission shall provide for furnishing information as to any such investment company to those who should apply therefor. It likewise provides for the disposition of the fees collected from such investment companies and appropriates funds for the maintenance of said Commission.

25. Said Act likewise requires, in Section 21 thereof, that the said Investment Company, as therein defined, shall file during the month of January in each year a detailed statement showing its condition at the close of business on the preceding December 31st, which said statement shall also contain such other information as the Commission may require. Such report shall be accompanied by a filing fee of One Dollar.

26. Said Act likewise provides in Section 22 thereof, that the Supreme Court may review any final order of determination of the Commission upon a writ of Certiorari but provides no other methods of apppeal from the findings of such Commission.

27. Said Act likewise provides that any person or persons who shall willfully violate any of the provisions of the Act shall be deemed guilty of a misdemeanor and be fined for such offence not more than $1,000, or be imprisoned in the County Jail for not more than one year, or both.

28. That said defendants have been acting under the pretended authority of Act 143 of the Public Acts of Michigan of 1913 and have claimed authority to enforce same and administer same at least as to Michigan domestic investment companies as in said Act 143 defined. That acting under said pretended authority of said Act 143 the said defendants have approved as so-called "Standard Manuals of Information" certain manuals as follows:

The Standard Statistics Bureaus Daily Bond Service.

The Standard Statistics Bureaus Daily Stock Service.

Poor's Manual of Railroads.

Poor's Manual of Public Utilities.

Poor's Manual of Industrials.

Moody's Manual of Railroad and Corporation Securities and a certain manual of securities published by the Detroit Stock Exchange of Detroit, Michigan, en-

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titled Michigan Manual of Corporation Statistics and The Annual Financial Review.

That said manuals above named and the manuals approved by the said Commission do not contain the information which is required by the Act to be furnished to the Commission by the so-called investment companies not listed in said manuals.

That the manuals approved by said defendants contained statements as to companies whose stocks, bonds and securities are valueless and are of such a nature that their sale unless it should be accomplished by a full disclosure or understanding as to the actual value of such securities, would work a fraud on the purchaser thereof, and the approval thereof permits the sale of such securities.

29. That as to certain of said so-called manuals, to-wit, the "Standard Statistics Bureau Daily Bond Service," the avowed purpose thereof is the supplying of all available information as to securities. That said "Services" supply information as to failing concerns and as to fraudulent securities as matters of information to their clients and the approval of all of said "Services" is, therefore, an approval of such fraudulent securities, such failing and insolvent investment companies and securities as well as of solvent investment companies and securities which are valuable and will result in profit to the purchaser.

That the listing of persons, corporations, companies or co-partnerships and their securities in said manuals involves no determination, whatsoever, as to their solvency or the fraudulent or non-fraudulent character thereof but they are so listed either by the procurement of such persons, corporations, companies or co-partnerships and the payment of a fee therefor for advertising purposes or by the publishers of said manuals as matters of financial news.

The approval of said manuals therefore does not involve a determination by the defendants herein that the plan of business of any company there listed or its securities are not fraudulent or that such securities will not in all probability work a fraud to the purchaser thereof.

30. That said defendants acting under the pretended authority of Act 46 of the Public Acts of 1915 have continued to approve and do now approve said "Standard Manuals of Information" in the last paragraph described.

That the approval of such manuals is an exemption of the securities therein. That the power to approve said manuals so given by said Act is a delegation of the power to exempt securities and the so-called investment companies, from the Act itself and from all the provisions and restrictions thereof and is such a delegation to the Commission and to the publishers of said manuals.

31. That said defendants have likewise issued certain blanks upon which are to be made the statements required from "investment companies" as defined by said Act as a condition precedent under said Act before the stocks, bonds and other securities of such companies can be sold or offered for sale in Michigan. That a copy of such blank is attached hereto and marked Exhibit "B". That it is the blank which your orator is required to fill out and the statement which it is required to make in order that it may sell or offer for sale its stocks, bonds and other securities in Michigan, either through itself or its agent and in order that others may sell such securities in Michigan.

32. That said blank requires that your orator furnish information which is unreasonable, not pertinent to the purpose for which said statement is required under the Act and substantially impossible to furnish.

(a) Said blank requires a statement of the consideration paid for stocks and bonds whereas the consideration paid for the stock of your orator is certain property and the same has been duly paid in accord with the requirements of the statutes of the state under which your orator is incorporated.

(b) It requires a true and complete list of the holders of the securities of your orator whereas such list is constantly changing and cannot be truly and completely made.

(c) It requires a profit and loss statement which is not in conformity with the account upon its books and which cannot be made in the manner required in the blank from the books of your orator.

(d) It requires a true and complete statement of its receipts and disbursements for the past six or twelve months whereas such a statement would be cumbersome in the extreme, would convey no information to said defendants pertinent to said purpose expressed in said Act.

(e) It requires a list of the officers of the investment company together with their holdings of stock and

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bonds in said company, the actual cash invested, their estimated net worth and the time devoted to the company whereas the number of shares and bonds owned is a matter confidential to said officers which your orator has no right to divulge, nor has your orator accurate information thereof; nor has your orator any way in which to determine the actual cash invested by such officers in your orator; nor the estimated net worth of said officers of your orator. And your orator charges that all such information is not pertinent to the purposes of said Act and beyond the power of said defendants to require.

(f) It required certain references as to the character, responsibility and financial standing of each director of your orator whereas the giving of such reference is not pertinent in any way to the purposes of said Act and beyond the power of said defendants to require.

33. That by reason of the requirements of said defendants as to said statement which must be filled by your orator before it can sell or offer to sell its securities in Michigan, the property rights of your orator are invaded and destroyed and its freedom of contract curtailed, impaired and destroyed and it will be otherwise seriously damaged in its business and property.

34. That by reason of the enforcement of said law and the requirements of said defendants and the requirements of said statements so to be filed, your orator cannot sell or offer to sell within the State of Michigan, its stocks, bonds and other securities.

35. That, even if your orator did comply with said requirements of the said Act and of the said defendants, your orator would be, by said Act, deprived of the right to sell its stocks, bonds and other securities in Michigan for a period of not less than 24 hours and for a much longer period unless its said application should be filed 24 hours before the regular meeting of said Commission, after the furnishing of such statement and the compliance by your orator with said Act.

That the first regular meeting of said Commission will be held on Friday the third day of September, 1915, and unless said Commission should hold a special meeting your orator would be deprived of the right to sell its stock from the date of this your orator's bill of complaint to said third day of September, 1915.

36. That not only is your orator deprived of its right to sell such securities in Michigan but brokers and

dealers in such securities are likewise deprived of said right and owners thereof are also deprived of the right to sell same through brokers and dealers except in compliance with the terms of said Act and the requirements of said defendants.

37. That by reason of the heavy penalties in said Act set forth, brokers and dealers in the securities of your orator and in similar securities fear to sell same or offer same for sale in Michigan, and your orator is deprived of the power to sell same in Michigan in any way whatsoever.

38. That the right to sell such stocks and bonds and securities is a valuable right to your orator. That the proceeds thereof are required to properly extend and carry on the business of your orator. That to deny your orator the right to sell same in Michigan endangers the present business of your orator and threatens to cause your orator serious damage and loss.

That your orator and the other owners of the securities of your orator acquired the same with the right to dispose of same in Michigan and elsewhere and free from any restrictions such as are imposed by said Act and any such restrictions impair the said right and damage said owners and your orator.

39. Your orator shows that the said Act 143 of the Public Acts of 1913, which has been hereinbefore referred to, was attacked as unconstitutional in a certain cause in this court known as Equity Cause 33 brought by the Alabama & New Orleans Transportation Company and others against Edward H. Doyle, John W. Haarer and Grant Fellows, as defendant, they then constituting the Commission created by said Act. That in the said bill of complaint in said cause, the said Act number 143 of the Public Acts of 1913 was charged to be unconstitutional as in said bill of complaint more fully appears. That a preliminary injunction was prayed for in said cause and upon the hearing and consideration thereof the court rendered an opinion thereon declaring said Act unconstitutional and void, which said opinion is set forth and published in 210 Federal Reporter page 173. That thereafter a final decree was rendered in said cause in accordance with said opinion and a permanent injunction issued against the enforcement of said Act by the said defendants. That said Act 46 of the Public Acts of 1915 is substantially a re-enactment of said Act 143 of the Public Acts of 1913 and is substantially identical therewith and its purpose and

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effect is to amend the said Act of 1913. That, while in its terms, it purports to repeal said Act 143 of the Public Acts of 1913, it creates a commission with powers substantially identical with those of the 1913 Commission, designed to regulate investment companies and their securities and dealers therein all as in said Act 143 defined. That said 1915 Act provides for the preservation and continuance of the proceedings pending under the 1913 Act. That it is in effect an attempt to preserve said Commission of 1913 with all its powers, duties and proceedings though that Commission and that law has by this court been declared unconstitutional, inoperative, void and invalid. Your orator charges that it is in all respects in a situation similar to that of the plaintiff, the Alabama & New Orleans Transportation Company, in said suit on the 1913 Act and that it, your orator, is entitled in all respects to participate in the relief decreed by this court in said suit, and is entitled to relief in this suit as if it had in said former action petitioned the court for further relief therein and for the extension of the injunction therein issued against the defendants herein attempting in any way as the Michigan Securities Commission to enforce said Act 143 of the Public Acts of 1913 or said Act 46 of the Public Acts of 1915. Your orator in this connection refers to the records and files in said cause number 33 and makes them a part of this its bill of complaint not, however, setting them out at length.

40. Your orator charges that said Act 46 of Public Acts of 1915 is unconstitutional and void and of no effect and is in violation of Section 21 of Article 5 of the Constitution of the State of Michigan which provides that no law shall embrace more than one object which shall be expressed in its title:

(a) In that the title of said Act includes as one object the prevention of fraud in the sale and disposition of stocks, bonds and other securities and likewise embraces a second object an inspection of the business of persons, firms, companies, associations selling or offering for sale such stocks, bonds and other securities.

(b) In that said Act in the title thereof, provides for the regulation of investment companies. That the Act itself provides for the regulation of manufacturing, transportation, mining and various other companies; that the title of said Act does not therefore express its object.

(c) In that said Act provides in Section 14 thereof that it shall be unlawful for any newspaper for any newspaper published in the State of Michigan to advertise the sale of any stocks, bonds or other securities which have not been approved by the Commission, or which are not exempt under the provisions of this Act. That said provision is not expressed in the title of said Act.

(d) In that the said Act forbids the taking of subscriptions for stock of corporations but such object is not set forth in its title.

(e) In that said Act in the title thereof is entitled an act to prevent fraud, etc., and to provide for an inspection, regulation and supervision of investment companies as there definied as may be necessary to prevent fraud. That said act in so far as it provides that the commission may fix the amount of stock which a corporation may issue for property sets forth an object which is not expressed in its title.

42. Said Act is likewise unconstitutional and void and in violation of the 14th Amendment of the Federal Constitution which provides that no state shall make or enforce any laws which shall abridge the privileges and immunities of the citizens of the United States, nor shall any state deprive any person of life, liberty or property without due process of law, nor deny any person equal protection of the law.

(a) Since said Act by its terms is applicable to stocks, bonds and other securities but is not applicable to unsecured commercial paper.

(b) Since said Act is, by its terms, applicable to secured commercial paper but is not applicable to unsecured commercial paper.

(c) Since said Act, by its terms, is not applicable to securities of state and national banks and trust companies but is applicable to banks other than state or national.

(d) Since said Act, by its terms, is not made applicable to building and loan associations but is applicable to other corporations incorporated to own, improve and deal in real property.

(e) Since said Act, by its terms, is made applicable to mortgage securities upon real property situated without the State of Michigan where the entire mortgage is sold and transferred with the notes secured by said mortgage, but said Act is not made applicable to mortgages upon real property situated

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within the State of Michigan, where the entire mortgage is sold and transferred with the notes secured by said mortgage.

(f) Since said Act, by its terms, is not applicable to mortgages upon real property situated within this state where the entire mortgage is sold and transferred with the notes secured by the mortgage, but is applicable to a mortgage on property within this state if said mortgage secures bonds and the entire mortgage is sold with all said bonds, or if said mortgage secures a note or notes and the entire mortgage is not sold with the note or notes.

(g) Since the said Act, by its terms, is made applicable to the stocks of investment companies as defined in said Act when the said stocks are sold by such companies or by agents thereof, but is not made applicable to the stock which is issued by such corporations and sold its stockholders or to stock dividends.

(h) Since the Act, by its terms, forbids the taking of subscriptions for stocks but does not forbid the sale of an increase of stock to those who are already stockholders.

(i) Since said Act, by its terms, is made applicable to the stock of any said investment company as defined in said Act when said stock is sold by said investment company or by its agents but is not made applicable to the stock of said Company when the same is issued to an original subscriber thereto.

(j) Since said Act is made applicable to investment companies as defined in said Act when said investment companies sell or offer for sale an entire issue of its bonds, stocks or other securities when such sale or offer for sale is not made in course of continued and successive transactions of similar nature, but said Act is not made applicable to the sale of such stocks, bonds or other securities by the owner thereof when he sells such securities owned by him when such sale is not made in the course of continued and successive transactions of a similar nature.

(k) Since said Act is made applicable to the dealer, as therein defined, in stocks, bonds and other securities but is not made applicable to one who in a trust capacity created by law, lawfully sells any securities embraced in such trust.

(l) Since such Act is not applicable to securities which are listed in any standard manual of information approved by the Commission and it is applicable

to securities not so listed, though the listing of such securities in such manual is not a finding as to their fraudulent character or whether or not their sale would work a fraud on the purchaser.

(m) Since said Act provides that the said Commission may appraise the property of a corporation and fix the amount of stock which may be issued thereof but does not provide that it may appraise the property of any other form of investment company nor fix the amount of securtiies other than stock which may be issued for property either of a corporation or of any other form of investment company as in said act defined.

43. That said Act 46 is unconstitutional and void and is in violation of Section 8 of Article 1 of the Constitution of the United States and of the 14th Amendment of said Constitution of the United States in that said Act does impose a burden upon interstate commerce in the following particulars:

(a) Said Act forbids the sale or attempt to sell of any stocks, bonds or other securities of any investment company, as defined in said Act, for a definite period of not less than 24 hours from and after the date on which said investment company shall have filed in the office of the Michigan Securities Commission, the statement and information required by said Act, and shall have otherwise conformed to said Act.

(b) Since said Act does prohibit the sale of stocks, bonds and other securities of said investment companies in the State of Michigan unless said investment companies shall in all respects conform to the requirements of said Act.

(c) Said Act does forbid the sale or offer for sale or the taking of subscriptions for or negotiating for the sale in any manner of the stocks, bonds or other securities of said investment companies as defined in the Act until such investment companies, though they be persons or co-partnerships resident in and organized under the laws of another state or country and nonresident or not organized under the laws of the State of Michigan, shall have filed with the said Michigan Securities Commission the report and information required by said Act and by said Commission, paid the fees in said Act prescribed and otherwise conformed thereto.

(d) Said Act does compel any person, firm, copartnership, corporation or association not resident in

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Michigan, who shall there sell or offer for sale any securities of any investment company covered by said act or who shall "by advertisement or otherwise profess to engage in the business of selling or offering for sale such securities" to make reports to said Securities Commission and pay certain fees. It forbids such persons, firms, co-partnerships, corporations or associations under heavy penalties from selling securities unless they shall have in all respects complied with the law. It also forbids such sale or offer for sale within the State of Michigan whether the sale be interstate or intrastate commerce.

In this respect your orator charges that stocks, bonds and other securities sold and offered for sale by your orator are legitimate articles of Commerce and that the sale thereof in interstate commerce is not subject to regulation by the State of Michigan in any way whatsoever, and that the sale thereof by your orator to residents of the State of Michigan to be delivered in the State of Michigan, payment therefor to be made upon such delivery to your orator outside the State of Michigan is interstate commerce and the burdens and restrictions imposed on such sale are burdens upon interstate commerce and unreasonable burdens thereon and render said Act unconstitutional and void.

(e) Said Act purports to give the Commission power to appraise the property of a foreign investment company and to examine its affairs and to fix the amount of securities to be issued by any foreign corporation in payment for property and require the stocks and securities so issued for such property to be deposited in escrow on such terms as the Commission may require. Such provisions are restrictions and burdens on interstate commerce and unreasonable restrictions and burdens thereon and so render the act void and of no effect.

(f) Said Act likewise purports to empower said Commission after the appraisal described in the last paragraph above to withhold its license to the said corporation to sell such stocks and bonds and securities as it may have issued in payment for property in excess of the value of such property as found by the Commission unless or until the said securities are deposited in escrow on terms prescribed by the Commission or unless the said excess amount thereof be surrendered to the corporation and cancelled by it. Said provisions are unreasonable burdens and restrictions on inter-

state commerce and render the said Act unconstitutional and void.

44. The said Act is likewise unconstitutional and void and in violation of the Fourteenth Amendment of the Constitution of the United States, since by its restriction and regulations it deprives your orators and other persons similarly situated of their property without due process of law, and denies to your orator and other persons similar situated the equal protection of the laws, and denies to your orator and others the freedom of contract guaranteed by the said constitution.

(a) In that the said Act deprives your orator of the right to sell its securities in the State of Michigan unless the said securities commission determines, in its opinion that said securities are not fraudulent in that the sale thereof will not work a fraud.

(b) In that the Act deprives your orator and other persons of the right of selling securities, except those exempted by the Act, until they have listed such securities with said Commission and paid certain fees and secured the approval of the Commission thereon.

(c) In that the said Act deprives your orator and any investment company as defined in said Act of the right to sell its stock, bonds or other securities for a definite period of not less than 24 hours even though said investment company should conform in all respects to the requirements of said law.

(d) And it likewise denies the right of your orator and any investment company as defined in said Act from selling or disposing of its stocks, bonds or any security unless the said Commission shall be of the opinion that the sale of its stocks, bonds or other securities will not work a fraud on the purchaser—though in fact said stocks, bonds or other securities are not fraudulent and the sale thereof is without misrepresentation or fraud.

(e) That it likewise denies to your orator and to any investment company as therein defined the right to sell, and to any persons, the right to purchase of your orator or any such investment company, any of its stocks, bonds or other securities not exempted by the Act if said purchase will in the opinion of the Securities Commission work a fraud on the purchaser, irrespective of the price at which said securities shall be sold and irrespective of the probability that such purchase may result in profit to said purchaser.

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(f) It denies to your orator or any said "investment company" the right to sell any such stocks, bonds, or other securities if same will in the opinion of the Commission work a fraud upon the purchaser even though "such investment company" or your orator shall sell same without misrepresentation and after having truthfully set forth all the facts in relation thereto to the purchaser thereof.

45. That said Act is likewise unconstitutional and void and violation of Section 16 of Article II of the Michigan Constitution and of the Fourteenth Amendment of the Constitution of the United States since it does deprive your orator and persons similarly situated of their property without due process of law; inasmuch as the restrictions and conditions prescribed by the Act are not within any power of the State of Michigan to impose and are not within the police power of the said state, in this respect:

(a) That said restrictions and conditions imposed by said Act are not necessary to protect the health, safety, morals and welfare of the people of the State of Michigan.

(b) That such conditions and restrictions as are by said Act imposed are not reasonable to protect the health, safety, morals and essential welfare of the said people of the State of Michigan, since such restrictions and regulations are imposed upon the business of selling all securities of every kind except as exempted in said Act and will seriously impede business and commerce and seriously interfere with business and commerce of every kind whatsoever by preventing the free purchase of said securities and the free investment in th stocks and bonds and securities covered by the Act.

46. That the provisions in said Act in Section 8 thereof are likewise unconstitutional and void.

(a) Said section provides that said Commission may cause an appraisal to be made of any investment company seeking to come under the Act and may fix the amount of stocks, bonds and securities that shall be issued by such corporation in payment of such property at the value at which it shall so appraise said property and may require such stocks and securities to be deposited in escrow on such terms as it may prescribe. It may likewise withhold its license to said corporation to sell such securities unless said securities which may have been issued in excess of the value fixed by the

ration or cancelled by it or deposited in escrow as the Commission shall prescribe.

The aforesaid provision is an absolute prohibition of the sale of stock paid for in property unless the Commission approved the value of said property as equal to the par value of the stock issued therefor.

The said prohibition of such sale is not based on fraud in said stock or the fraudulent character thereof or fraud in the sale thereof but upon the opinion of the Commission as to the value of the property for which it is issued. The test to be applied by the Commission is not fraud or the probability of fraud but the probability of loss.

The said provision contravenes the Constitution of the United States and the 14th Amendment thereof also the 16th Section of the Constitution of Michigan.

(b) That said Act is likewise unconstitutional and void and in violation of the 14th Amendment of the Constitution of the United States in that it provides that the said Commission may cause an appraisal to be made at the expense of the investment company of its property and may fix the amount of stocks, bonds and other securities which may be issued by said investment company, foreign or domestic, for such property and may require such securities to be deposited in escrow under such terms as it may prescribe and may withhold the license to sell such securities if said company has issued same in excess of the value of said property as fixed by the Commission unless said securities shall be surrendered and cancelled or deposited in escrow under the terms prescribed by the said Commission.

Your orator charges that the making of such appraisal constitutes a taking of property without due process of law. That it has acquired in its charter the right to issue securities to the amount there set forth and the requirement that said stock be delivered up and cancelled or placed in escrow is likewise a taking of property without due process of law.

It shows that the right to dispose of stocks and securities paid for in property as provided in the statute and set forth in its charter is a right which cannot be abridged by a requirement that such stocks or securities shall be surrendered or deposited in escrow at the will of or upon the terms prescribed by the Commission.

47. That said Act is likewise unconstitutional and void and in violation of Section 16, Article II of

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the Michigan Constitution and of the Fourteenth Amendment to the Constitution of the United States.

(a) Since said Act purports to regulate and restrict the right of the corporations, co-partnerships, associations, persons and firms who by said Act are defined as "dealers" and provides that the said dealers shall not sell nor offer for sale any securities nor profess the business of selling or offering for sale any securities covered by the Act unless such dealers shall have otherwise complied with the requirements of said Act; that insofar as said Act attempts to classify and define said dealers in said securities it is unconstitutional and void, inasmuch as it denies to said dealers as therein defined the equal protection of the law; that in defining and classifying those who sell or offer for sale any of the stocks, bonds or securities issued by investment companies as defined in the Act, said classification is unreasonable, invalid and void.

(b) Since said Act purports to prohibit any "dealers" as therein defined from selling or offering for sale any stocks, bonds or other securities covered by said Act unless said dealers shall furnish the said Commission a statement as to their names and addresses, the general character of the securities to be dealt in by them, the place of their office in Michigan; and such additional information as the Commission may deem necessary and that such dealer shall likewise file with said Securities Commission an appointment of the Commissioner of the State Banking Department as his agent in Michigan for the service of process.

48. Said Act is likewise unconstitutional and void and in violation of the Constitution of the State of Michigan and of the Constitution of the United States in that the powers and duties conferred upon the said Michigan Securities Commission involves the delegation of legislative power to the said Commission. Said Act confers upon the said Commission the power to determine whether the proposed plan of business or its proposed stocks, bonds, and other securities of the said investment company or of your said orator is or is not fraudulent. It likewise confers upon the said Commission power to determine whether the sale of said contracts and securities of your orator as a said investment company would, "in the opinion of said Commission," work a fraud on the purchaser thereof.

That the said Act in no respect determines the standard of what is or is not fraudulent and in no re-

spect determines what securities would be fraudulent and in no respect determines what would be the nature and character of securities the sale of which would in the opinion of said Commission work a fraud.

But said Act on the other hand confers upon the Commission the power to fix, by its opinion what is or is not fraudulent.

Insofar as said Act does not determine the standard by which said plan of business and said securities are in this respect to be adjudged, it is a delegation of a legislative power, and therefore, void.

49. That the said Act is likewise unconstitutional and void and in violation of the Constitutions of the United States and of the State of Michigan, inasmuch as it confers upon the said Michigan Securities Commission the authority and power to determine what is a fraudulent plan of business, a "fraudulent security" and a security the sale of which will work a fraud. That thereby it confers upon said Commission judicial authority; that said Commission is not a judicial body, within the provisions of the Constitution of the State of Michigan and of the United States, and the delegation thereto of judicial power to determine the questions as above set forth is in violation of said Constitution and said Act, therefore is void.

50. That the said Act is likewise unconstitutional and void and in violation of the 14th Amendment of the Constitution of the United States in that it denies to your orator and to the persons, associations, corporations and partnerships made, by its terms, subject thereto, the right to a judicial investigation by due process of law, of the facts as to whether or not the plan of business of your orator and such corporations is or is not fraudulent; as to whether or not the securities issued thereby are or are not fraudulent, or whether such securities are or are not of such a nature that their sale will work a fraud upon the purchaser.

51. That said Act is likewise unconstitutional and void in that it denies the due process of law guaranteed by the Constitution of the United States to your orator, in that the determination of the said Commission upon the question as to whether or not the plan of your orator is fraudulent and whether its securities are fraudulent, or that they will in all probability work a fraud upon the purchaser thereof is final; and that the said Act does not provide an appeal from the said finding

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for a review of such findings by certiorari only. That the said Act does in effect provide that the Commission shall conclusively determine the questions of fact which may be submitted to it in the course of investigation of the said plan of business of your orator and of its securities.

52. That said Act is likewise unconstitutional and void and in violation of the 14th Amendment of the Constitution of the United States in that it deprives your orator and others similarly situated of liberty and property without the due process of law and denies to your orator and others equal protection of the law, since said Act provides that said defendants and the Michigan Securities Commission, its clerks, accountants and examiners may examine the business of your orator and its accounts, may require it to divulge any and all facts in connection with said business whether or not the same relates in any way to the securities proposed to be sold in Michigan.

Your orator shows that said defendants have announced what facts and information in connection with said business the said Commission would require in its preliminary statement upon which the securities of your orator and others similarly situated will or will not be listed by said Commission and that many of such facts of such information do not relate to the question of whether or not such securities are fraudulent or as to whether their sale would work a fraud. Nevertheless said Act does further provide that all such information obtained by said Commission and all the records of the Commission in regard thereto shall be open to examination by the public.

Whereas your orator charges that its information as to its said business, its contract with its employees and with others, its knowledge as to the methods by which it transacts its affairs, its knowledge as to the credits of its customers, its general information as to the conduct of its business, the prices and the costs of the products which it sells, each and all are property rights of value to your orator and the publication of information thereto as to your orator's business deprives it of valuable rights, seriously damages it in its business and will otherwise cause it damage and loss.

53. That said Act is likewise unconstitutional and void in that it subjects your orator and others similar situated to cruel and unusual punishments in violation

igan in that it prescribes as penalty for the sale or offer for sale of any of the stocks, bonds or other securities of your orator or other investment companies, unless said companies shall have complied with the provisions of the Act, and unless the dealers described in said Act shall have registered with the Commission as prescribed and provided, and provides that the said violation of the Act in that respect shall be a misdemeanor and any person who has so violated said Act shall, upon conviction thereof, be fined not more than $1,000.00 or imprisoned in the county jail for not more than one year or both, and any intention to defraud any purchaser of stock, bonds or other securities or any intention to wilfully violate said Act is not required to make said violation a misdemeanor.

That any person who shall knowingly or wilfully make or cause to be made any false statements or false entries in the books of the company shall likewise be guilty of a felony, and any person who shall exhibit any false paper with the intention of or for the purpose of deceiving any person authorized to investigate said investment company's affairs, or who shall make any false statements relative to the securities of same, shall likewise be guilty of a misdemeanor and upon conviction shall be fined not more than $1,000 or imprisoned in the county jail for not more than one year, or both. That by the statute of the State of Michigan making false statements in reference to the condition of any corporation is already made a crime and made punishable under the law of said state by heavy penalties.

54. That said Act is likewise unconstitutional and void since it prescribes extraordinary and unusual punishment and penalties for violation thereof, and provides penalties of fines or imprisonment in the county jail for the sale or offer for sale of any of the securities covered by said Act, and provides other penalties, fines and imprisonments, all of which are so extreme and cumulative that they prevent any person, firm or corporation as described in said Act, or a dealer as therein described from challenging the validity of said Act in the courts, and necessarily constrain all persons to submit to the provisions of said Act rather than take the chance of the penalties imposed. That, therefore, said Act in that respect deprives your orator and other persons similarly situated of the equal protection of the law guaranteed to it by the Constitution of the United States

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55. Your orator further charges that said Act declares that all proceedings pending before the Michigan Securities Commission created by Act 143 of the Public Acts of 1913 shall be continued by said Act 46 of 1915 and all actions civil and criminal pending under said Act 143 of 1913 shall be continued and completed under said Act 46.

Your orator charges, however, that said Act 143 of the Public Acts of 1913 has been declared and decreed to be unconstitutional and void by the District Court of the United States for the Eastern District of Michigan in a suit entitled the Alabama and New Orleans Transportation Company et al. vs. Edward J. Doyle et al., being equity cause No. 33 on the docket of said court. That the opinion in said cause is reported in 210 Federal Reporter 173, all of which records and files and said opinion are as hereinbefore set forth made a part of this bill of complaint. That by said decree Act 143 of 1913 was declared null and void and of no effect whatsoever. That the said Michigan Securities Commission created by said Act 143 has no valid constitutional authority either as to investment companies as there defined resident in Michigan or as to non-resident investment companies or as to dealers as defined in said Act or their agents or as to your orator, and any pretended authority of any kind in said Commission is contrary to law. The proceedings of said former commission cannot, therefore, be continued nor the actions brought under said former Act completed. And Act 46 of 1915 in so far as it attempts to validate such void and invalid proceedings of said former commission is now void and of no effect whatsoever.

56. Your orator charges that it is its desire and right to offer its stock, bonds and other securities for sale in the State of Michigan by itself or through brokers and that it is the avowed purpose of the said defendants herein to prevent such sale and offer for sale unless your orator and such other persons shall have complied in all respects to the requirements of said Act and the requirements of said defendants.

57. That immediate and irreparable injury will be caused to your orator by reason of the enforcement of said Act and particularly by the fact that your orator, its agents and employees will be prevented by said Act from selling its said securities in Michigan except in compliance with said Act and not at all for at least 24 hours after listing same as provided in said Act.

58. That to prevent the immediate and irreparable injury and the continuing wrong which will necessarily arise by the conduct of said defendants in the enforcement made by said defendants and the Michigan Securities Commission and to prevent a multiplicity of suits against your orator, its officers, agents and employees, brokers and dealers in its securities and owners of its securities, desiring and intending to offer same for sale through dealers and agents and that to prevent prosecution under said Act and the imposition of the heavy penalties described by the Act and to prevent such injury to persons intending and desiring to purchase such securities, a writ of injunction is necessary to restrain the said defendants from interferring with your orator and other persons similarly situated and agents and employees of your orator, dealers in its stocks, bonds and other securities and any and all persons owners of said securities who may desire to sell same in a manner not permitted by said Act.

59. That the value of the matter herein disputed the loss which your orator is sustaining and will sustain by the enforcement of said Act and the damage to your orator's business as hereinbefore set forth will be to greatly exceed the sum of five thousand dollars exclusive of interest and costs.

60. Forasmuch, therefore, as your orator has no remedy in the premises save in a court of equity your orator prays the aid of the court:

(a) To the end that the said Frank W. Merrick, John W. Haarer and Grant Fellows, defendants herein, may without oath (answer on oath being expressly waived) full, true, direct and perfect answer make to all and singular the matters and things hereinbefore stated and charged.

(b) And to the end that said Act 46 of the Public Acts of 1915 may be decreed to be unconstitutional and void and of no effect whatsoever.

(c) And to the end that your orator and its agents, employees and brokers and the dealers in its stocks, bonds and other securities may be decreed to have the right to sell and offer for sale the said stocks, bonds and other securities of your orator, without compliance in any way with the regulations and restrictions in said Act set forth.

(d) And your orator, its officers, agents and employees and those who may sell or offer for sale or profess to sell the stocks, bonds and other securities of

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your orator, may be secured against unlawful and illegal trespasses and arrests by reason of any alleged violation of said Act.

And that the said Frank W. Merrick, John W. Haarer and Grant Fellows, their agents and employees of every kind whatsoever and the agents and employees of said Michigan Securities Commission may be perpetually and forever restrained by the order and injunction of this court from:

(a) Enforcing and attempting to enforce any of the provisions of said Act 46 of the Public Acts of 1915 and

(b) From hindering or in any may whatsoever attempting to hinder the sale or offer for sale of the stocks, bonds and securities of your orator, whether such sale or offer for sale be made by your orator or by any other person whatsoever.

(c) From beginning any action of any nature whatsoever against your orator, its officers, agents and employees, or against any person to prevent or hinder in any way the sale of the stocks, bonds and other securities of your orator in the State of Michigan.

(d) From publishing any information as to the stocks, bonds or other securities of your orator.

(e) From arresting or causing the arresting of any officer, agent or employee of your orator, or any person who may within the State of Michigan sell, offer for sale, take subscriptions for or negotiate for the sale in any manner, or profess to sell any of the stocks, bonds or other securities of your orator.

And that said defendants and each and all of them may be in the meantime so restrained during the pendency of this suit.

And that your orator may have such other relief as may be agreeable to equity and good conscience.

The Weis Fibre Container Corporation,
Per H. A. Consor, Treas.

Beaumont, Smith & Harris,
Solicitors for Plaintiff.

State of Michigan, County of Wayne, ss:

H. A. Consor being duly sworn, deposes and says that he is treasurer of the Weis Fibre Container Corporation, the plaintiff above named, and is acquainted with the facts set forth in the foregoing bill of complaint; that he is duly authorized to sign same and that said bill of complaint is true except as to matters

therein stated to be on his information and belief and as to those he believes it to be true.

H. A. Consor.

Subscribed and sworn to before me this 24th day of August, 1915.

Albert E. Meder,
Notary Public, Wayne County, Michigan.
My commission expires Sept. 4, 1916.

EXHIBIT A.

An Act to prevent fraud in the sale and disposition of stocks, bonds or other securities sold or offered for sale within the State of Michigan by any dealer, firm, company, association or corporation, foreign or domestic, by requiring an inspection of such stocks, bonds, or other securities and an inspection of the business of such persons, firms, companies, associations or corporations, including dealers and agents, and such regulation and supervision of the business of said persons, firms, companies, associations, or corporations, including dealers and agents, as may be necessary to prevent fraud in the sale within the State, of any stocks, bonds or other securities, and to provide a penalty for the violation thereof, and to repeal act number one hundred forty-three of the Public Acts of nineteen hundred thirteen, approved May two, nineteen hundred thirteen, and all other acts or parts of acts inconsistent herewith.

(Act No. 46, P. A. 1915.)

The People of the State of Michigan enact:

Section 1. There is hereby created a commission to be known as the Michigan Securities Commission and hereafter called in this act "the commission," whose duty it shall be to administer and provide for the enforcement of all the provisions of this act. Said commission shall consist of the Commissioner of the State Banking Department who shall be president thereof; the State Treasurer of the State and the Attorney General of the State, all of whom shall be members of said commission during their respective terms of office and any two of whom shall constitute a quorum. The said commission shall succeed the Michigan securities commission created by act one hundred forty-three of the Public Acts of nineteen hundred thirteen, and as such successors shall receive all of the files, papers and prop-

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erty of said Michigan securities commission created by said act one hundred forty-three of the Public Acts of nineteen hundred thirteen. All proceedings pending before said Michigan securities commission created by said act one hundred forty-three of the Public Acts of nineteen hundred thirteen shall be continued by the commission created by this act; all actions, civil and criminal, pending under said act one hundred forty-three of the Public Acts of nineteen hundred thirteen shall be continued and completed thereunder. Said commission shall have its office in the capitol in the city of Lansing, in rooms to be provided by the Board of State Auditors, and all of its records shall be there kept. It shall hold a regular meeting on the first Friday of each month and may hold special meetings upon the call of the president. It shall keep a complete record of all its meetings, its accounts and the business it transacts. It shall appoint a secretary whose salary shall not exceed the sum of twenty-five hundred dollars per annum and shall have power to employ such other and further assistance as may be necessary to carry out the provisions of this act. All salaries fixed by it shall be subject to the approval of the Board of State Auditors. It shall make such rules and regulations as may be necessary to carry out the provisions of this act and may prepare all necessary blanks to be used in its proceedings and in the conduct of its business.

Sec. 2. Every person, corporation, copartnership, company, or association (except those exempt under the provisions of this act) organized, or which shall hereafter be organized in this state, whether incorporated, or unincorporated, which shall either himself themselves or itself, or by or through others, sell or negotiate for the sale of any stocks, bonds or other securities issued by him, them or it within the State of Michigan, shall be known for the purposes of this act as a domestic investment company. Every such person, corporation, co-partnership or association resident of or organized in any other state, territory or government, shall be known for the purposes of this act as a foreign investment company.

Sec. 3. The provisions of this act shall not apply to (a) securities of the United States, or any foreign government, or of any state or territory thereof, or of any county, city, township, district or other public taxing subdivision of any state or territory of the United

States, or any foreign government; (b) unsecured commercial paper; (c) securities of public or quasi public corporations, the issue of which securities are regulated by the Michigan Railroad Commission or by a public service commission or board of equal authority of any state or territory of the United States or securities senior thereto; (d) securities of state or national banks or trust companies, or building and loan associations of this state; (e) securities of any domestic corporation organized without capital stock and not for pecuniary gain, or exclusively for educational, benevolent, charitable or reformatory purposes; (f) mortgages upon real and personal property situated within this state where the entire mortgage is sold and transferred with the note or notes secured by such mortgages; (g) increase of stock sold and issued to stockholders, also stock dividends; (h) securities which are listed in any standard manual of information approved by said commission. *Provided, however,* That said commission shall have the power to call for additional and further information than that contained in such manuals with reference to any securities listed therein, and may, pending the filing of such information, suspend the sale of such securities, and also suspend, either temporarily or permanently, the sale of any securities listed in such manuals after a hearing upon notice to the issuer of such securities if said commission shall find that the sale of such securities would work a fraud upon the purchasers thereof; (i) all stocks, bonds and securities approved by the Michigan securities commission created by act one hundred forty-three of the Public Acts of nineteen hundred thirteen.

Sec. 4. Before selling, offering for sale, taking subscriptions for, or negotiating for the sale in any manner whatever in this state, any stocks, bonds or other securities of its own issue, every investment company, domestic or foreign, shall file in the office of the commission a statement showing in full detail the plan upon which it proposes to transact business; a copy of all contracts, stocks, bonds or other instruments which it proposes to make with, or sell to, its contributors or customers, together with a copy of its prospectus, and of the proposed advertisements of its sale of stocks, bonds or other securities, which statement shall also show the name and location and main office of the investment company; the names and addresses of its officers, and

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an itemized account of its financial condition and the amount of its assets and liabilities, and such other information touching its conditions and affairs as the commission may require. If such investment company shall be a co-partnership or an unincorporated association it shall also file with the commission a copy of its articles of co-partnership or association, and all other papers pertaining to its organization. If it be a corporation organized under the laws of Michigan it shall also file with the commission a copy of its articles of incorporation, constitution and by-laws, and all other papers pertaining to its organization. If it shall be an investment company organized under the laws of any other state, territory or government, incorporated or unincorporated, it shall also file with the commission a copy of the laws of the state, territory or government under which it exists or is incorporated, and also a copy of its charter and the certificate of the proper officer of such state showing that it is authorized to transact business there, and also copies of its constitution and by-laws, and all amendments of any of the above mentioned instruments which have been made, and all other papers pertaining to its organization. It shall also pay a filing fee of one-tenth of one per cent upon the face value of the securities for the sale of which application is made: *Provided, however,* That such filing fee shall not be more than one hundred dollars, nor less than ten dollars.

Sec. 5. All of the above described papers shall be verified by the oath of a member of the co-partnership or company, if it be a co-partnership or company, and by the oath of a duly authorized officer, if it be a corporation or an unincorporated association. All such papers, however, as are recorded or are on file in any public office shall be further certified by the officer of whose records or archives they form a part, as being correct copies of such records or archives.

Sec. 6. Every foreign investment company before offering for sale any of its stocks, bonds or other securities in this state shall also file its irrevocable written consent that suits and actions may be commenced against it in the proper court of any county in this state in which a cause of action may arise or in which the plaintiff may reside, by the service of any process or pleadings authorized by the laws of this state, on the Commissioner of the State Banking Department, said consent stipulating and agreeing that such service of

such process or pleadings on such commissioner shall be taken and held in all courts to be as valid and binding as if due service had been made upon the company itself, and said instrument containing such consent shall be authenticated by the seal of said foreign investment company, and by the acknowledged signature of a member of the co-partnership or company, if it be a co-partnership or company, or by the acknowledged signature of the president and secretary of the incorporated or unincorporated association, if it be an incorporated or unincorporated association, and shall in such case be accompanied by a duly certified copy of the resolution of the board of directors, trustees or managers of the corporation or association, authorizing the secretary and president to execute the same. In case any process or pleadings mentioned in this act are served upon the Commissioner of the State Banking Department, it shall be by duplicate copies, one of which shall be filed in the office of the Michigan Securities Commission and another immediately forwarded by registered mail to the head office of the person or corporation against which said process or pleadings are directed.

Sec. 7. Said application shall be heard by the said commission at the next regular meeting after said application is filed (providing such filing shall precede such monthly meeting by twenty-four hours), or at a special or adjourned meeting of said commission, but if such application is heard at a special or adjourned meeting of said commission the secretary shall give such applicant at least two days' notice of such hearing. Said commission may have power to adjourn such hearings upon such applications from day to day or from time to time.

Sec. 8. The said commission shall have power to demand from any investment company seeking to come under the provisions of this act any further information other than such investment company is required to furnish under the provisions of this act which shall be necessary to the end that the commission may be put in possession of all facts and information necessary to qualify it to properly pass upon all questions that may come before it. It may make or have made under its direction a detailed examination of such investment company's property, business and affairs, which examination shall be at the expense of such investment company. It may cause an appraisal to be made, at the

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expense of said investment company, of the property of said investment company, including the value of patents, good will, promotion and intangible assets, and it may fix the amount of stocks, bonds and securities that shall be issued by any corporation, foreign or domestic, in payment for property, patents, good will, promotion and intangible assets at the value it shall find the same to be worth and may require that such stocks and securities so issued for such property, patents, good will, promotion and intangible assets shall be deposited in escrow under such terms as said commission may prescribe. And said commission may withhold its license to sell such stocks, bonds and securities if such corporation has issued stocks, bonds and securities in payment for property, patents, good will, promotion and intangible assets in excess of their value as found by said commission, and said stocks, bonds and securities are not deposited in escrow according to the terms fixed by such commission, or if such stocks, bonds and securities issued in payment for property, patents, good will, promotion and intangible assets in excess of the value so found by said commission have been surrendered to such corporation and cancelled by it, and until the said stock has been deposited in escrow under the terms prescribed by said commission.

Sec. 9. It shall be the duty of said commission to examine the statements and documents filed in its office by any investment company and the reports of any investigation conducted under the direction of said commission and to hear such applicant and it shall have power to examine under oath any person interested or connected with such investment company, and if said commission finds that the proposed plan of business of said investment company, or that its proposed contracts, stocks, bonds or other securities are fraudulent or are of such a nature that the sale of such contracts, stocks, bonds or other securities would in the opinion of said commission work a fraud upon the purchaser, then said commission shall disapprove the sale of such proposed contracts, stocks, bonds or other securities and shall notify such investment company by registered mail of its findings and disapproval, and it shall be unlawful for such company to do any business in the way of selling, offering for sale, taking subscriptions for, or negotiating for the sale in any manner whatever of any such contracts, stocks, bonds and other securities in this State; and said contracts, stocks, bonds and other secur-

ities shall not be sold in this State. If, however, said commission shall not find that the proposed plan of business of said investment company or that its proposed contracts, stocks, bonds or other securities are fraudulent or are of such a nature that the sale of such contracts, stocks, bonds or other securities would in the opinion of said commission work a fraud upon the purchaser thereof, then it shall approve the sale of such stocks in the State of Michigan and issue its certificate in substantially the following language:

"This is to certify that the.....
has this date been given permission to sell $.....of its
.....within the State of
stocks, bonds or securities.
Michigan. The Commission does not recommend the purchase of this security.
Dated.....
In Witness Whereof, I have hereunto affixed the corporate seal of the Michigan Securities Commission.
(SEAL) .....
Secretary."

The words "The commission does not recommend the purchase of this security" shall be printed in type two sizes larger than any other part of said certificate, and in case said certificate or the fact that said commission has approved said security is printed or published in any circular, pamphlet or newspaper, the words "The commission does not recommend the purchase of this security" shall be printed in type two sizes larger than the type in which the statement of fact that such security has been approved by said commission appear.

Sec. 10. Any person, firm, co-partnership, corporation or association whether domestic or foreign, not the issuer, who shall in this State sell or offer for sale any of the stocks, bonds or other securities issued by any foreign or domestic investment company, except the securities specially exempted in this act, or who shall by advertisement or otherwise profess to engage in the business of selling or offering for sale such securities, shall be deemed to be a "dealer" in such securities within the meaning of this act, and no dealer within the meaning of this act shall sell or offer for sale any such securities or profess the business of selling or offering for sale such securities unless and until he shall have filed a list of the same in the office of the Michigan Securities Commission as in this act provided. The term "dealer" shall not include an owner not issuer of such

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securities so owned by him when such sale is not made in the course of continued and successive transactions of a similar nature, nor one who in a trust capacity created by law lawfully sells any securities embraced within such trust.

Sec. 11. Any dealer desiring to sell or offer for sale within this State any stocks, bonds or other securities not exempted under the terms of this act, shall first register with the Michigan Securities Commission and shall furnish said commission, upon oath, in such form as the commission shall prescribe, the following information, to-wit: The dealer's name, residence and business address, the general character of the securities to be dealt in, the place or places where the business is to be conducted within this State, and where the business in this State is not to be conducted by the dealer in person, then the names and addresses of all the persons in charge thereof. Said dealer shall pay to the commission a fee of fifty dollars and shall furnish said commission with such other information in addition to that above specified as said commission shall deem necessary in order to thoroughly acquaint such commission with the character of the business of said dealer. All authorized agents of any dealer shall be registered with the commission and the name of any agent shall be stricken from the register by the commission upon the written request of the dealer and additional agents may be registered by the commission upon like request of the dealer: Provided, That no agent shall act as such until his name and address shall be registered with the commission. If the dealer shall be a non-resident of this State or a corporation other than a domestic corporation, he shall at the time he registers with the commission, file with the commission a written duly authenticated appointment of the Commissioner of the State Banking Department of this State as his or its agent in Michigan upon whom process or pleadings may be served for and on behalf of the dealer, which appointment shall be irrevocable. Upon compliance by such dealer with the provisions of this act the said commission shall issue to such dealer a license under the seal of said commission and signed by the secretary thereof, which said license shall be good until revoked by said commission for good cause upon notice to such dealer and a hearing duly had: *Provided further,* That said commission shall issue the license provided for in this section to each dealer registered under act one hundred forty three of

the Public Acts of nineteen hundred thirteen upon the payment to said commission of the sum of one dollar, and shall also issue licenses under the terms of this act and upon the payment of the sum of twenty-five cents to such agents as were registered under the provisions of said act number one hundred forty-three of the Public Acts of nineteen hundred thirteen.

Sec. 12. In addition to the filing and examination fees herein provided for to be paid by investment companies and dealers, there shall be charged and collected by said commission a fee of three dollars for the registration and authorization of each agent of any such investment company or dealer and all the fees and charges collected by the commission shall be turned into the State Treasury and are hereby reappropriated to the commission towards paying the expenses of enforcing this act. The expenses of said commission shall not, however, be limited to the moneys received by it, but it shall have the power to incur all expenses it finds necessary in enforcing the provisions hereof.

Sec. 13. General accounts of every investment company, domestic or foreign, shall be kept in a business-like and intelligent manner and in sufficient detail that said commission can ascertain at any time its financial condition and the books of accounts shall at all times during business hours, except on Sundays and legal holidays, be open to stockholders and investors in said company, and the said commission, or its duly authorized representatives, and all such investment companies, shall be subject to examination by said commission or any member thereof, or the clerks, accountants or examiners thereof, at anytime said commission shall deem it advisable, and in the same manner as is now provided for the examination of State banks, and such investment company shall pay a fee for each of such examinations of not to exceed seven dollars for each day or fraction thereof that any member of said commission, clerk, accountant or examiner is absent from the capitol building for the purpose of making such examination and shall also pay the actual traveling and hotel expenses of the person or persons making such examination and the failure or refusal of any investment company to pay such fees, upon demand of such commission clerk, accountant or examiner, while making such examination shall work a forfeiture of the right of such investment company to sell or offer for sale any of its contracts, stocks, bonds or other securities in this State. In case

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of a preliminary examination of any investment company by said commission for the purpose of the ascertainment by said commission as to whether said company shall be permitted to come under the provisions of this act, the fee for such examination shall be the same as in this section provided, and in case it shall be made to appear to the commission from the examination of said investment company after said investment company has been authorized to sell its stocks, bonds and securities that the further sale of said stocks, bonds and other securities would work a fraud upon the purchaser, then said commission may make an order revoking the license of said investment company to sell its stocks, bonds and securities upon notice duly given and a hearing duly had and may, pending such hearing, suspend the right of said investment company to sell its stocks, bonds and securities.

Sec. 14. It shall be unlawful for any investment company or dealer, or representative thereof, either directly or indirectly, to sell or cause to be sold, offer for sale, take subscriptions for, or negotiate for the sale in any manner whatever in this State, any stocks, bonds or other securities (except as expressly exempted herein), unless and until said commission has approved thereof and issued its certificate in accordance with the provisions of this act, nor shall it be lawful for any such investment company to transact business on any other plan than that set forth in the statements and papers required to be filed by virtue of the provisions of this act or the rules of the commission. It shall be unlawful for any investment company or dealer, or its or his agents, to issue, circulate or deliver any advertisement, pamphlet, circular, prospectus, or other document in regard to its stocks, bonds or other securities in the State of Michigan differing in any way from the copy filed with said commission as provided by this act. It shall be unlawful for any newspaper published in the State of Michigan to advertise the sale of any stocks, bonds or securities which have not been approved by said commission or which are not exempt under the provisions of this act.

Sec. 15. No dealer within the meaning of this act shall sell or offer for sale within this State any of the stocks, bonds or other securities of any investment company unless such investment company shall have fully complied with all the provisions of this act, nor until said dealer shall have registered with the commission

under the terms of this act: *Provided, however,* That should any dealer desire to sell or offer for sale within this State the stocks, bonds or other securities of an investment company, which has not itself complied with the provisions of this act, said dealer shall make application to said commission for license as hereinbefore provided for applications by investment companies and shall pay the same fee required to be paid by said investment company.

Sec. 16. All information obtained by the commission with reference to any securities and all records of the commission relating thereto shall be open to examination by the public, and it shall be the duty of the commission to preserve such information, and so classify and arrange it as to facilitate examination. The commission may from time to time issue in pamphlet form, or by means of newspaper advertisements or otherwise, any and all information regarding any and all contracts, stocks, bonds or other securities sold or offered for sale within this State which it deems would be of public interest or advantage. All fees herein provided for shall be paid into the State Treasury by the commission upon receipt thereof.

Sec. 17. Nothing in this act shall be construed to repeal or modify any laws giving the State Banking Department of this State control of and supervision over State banks and the business of banking in this State, nor shall any part of this act be construed to repeal or modify laws giving the Commissioner of Insurance of this State control of and supervision over the business of insurance in this State, and those engaged therein.

Sec 18. The commission shall adopt a seal with the words "Michigan Securities Commission" and such design as the commission may prescribe, engraved thereon, by which it shall authenticate its proceedings. Copies of all records and papers in the office of the commission certified by the secretary thereof and authenticated by the seal of said Michigan Securities Commission shall be received in evidence in all courts equally and with like effect as the originals.

Sec. 19. Any person who shall knowingly or wilfully subscribe to or make or cause to be made any false statement or false entry in any book of any investment company, or who shall exhibit any false paper with the intention or for the purpose of deceiving any person authorized to examine into the affairs of said investment company or shall make or publish any false statement of

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the financial condition of said investment company or false statement relating to the contracts, stocks, bonds, or other securities by it issued and offered for sale, shall be deemed guilty of a misdemeanor and shall be punished as hereinafter provided.

Sec. 20. The commission shall provide for the furnishing to those who may apply therefor, of any information regarding any investment company or its affairs, which is on file in its office, said commission to charge therefor approximately the cost of preparing such information. All fees collected under the provisions of this act shall be paid into the State treasury on the first day of each and every calendar month, and a complete record of all fees received shall be kept in the office of the commission, and all said fees so turned into the State treasury are hereby re-appropriated to the commission for the purpose of paying salaries and expenses necessary for carrying this act into effect. The members of the commission shall perform the duties imposed upon them and each of them, by the terms of this act, without other compensation than the salaries paid them by the State, but they shall be entitled to receive their actual expenses incurred when absent from the seat of government on business of the commission.

Sec. 21. Every investment company, domestic or foreign, shall file during the month of January in each and every year a detailed statement in such form and containing such information as the commission shall require showing its condition at the close of business on the preceding December thirty-first, and shall at the same time pay a filing fee therefor of one dollar.

Sec. 22. The supreme court upon petition of any person aggrieved may review by certiorari any final order of determination of the commission. The issuance of the writ shall not, however, unless specifically ordered by the court, operate as a stay of proceedings.

Sec. 23. Any person or persons who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than one thousand dollars or shall be imprisoned in the county jail for not more than one year, or both such fine and imprisonment in the discretion of the court.

Sec. 24. Should the courts of this State declare any section or provision of this act unconstitutional or unauthorized, or in conflict with any other section or pro-

vision of this act, then such decision shall affect only the section or provision so declared to be unconstitutional or unauthorized and shall not affect any other section or part of this act.

Sec. 25. Act one hundred forty-three of the Public Acts of nineteen hundred thirteen and all acts or parts of acts in conflict herewith are hereby repealed.

Approved April 9, 1915.

Application must be complete and filed twenty-four hours in advance of meeting.

Form 15—General Application. (Supersedes Form No. 1.) Sheet 1.

Date of Application....Final papers filed....Fee $....

Passed..... Disapproved.....

(Do not write in the above space.)

BEFORE THE MICHIGAN SECURITIES COMMISSION.

In the matter of the application of

Name

.....

Address

.....

No.....

for authority to sell its securities in the State of Michigan under the provisions of Act No. 46, Public Acts of 1915.

The ..... Company of.....hereby makes the following statement to the Michigan Securities Commission:

1. Principal office .....
   Branch offices .....
2. Incorporated under the laws of the state of.....
   .....on the.....day of.....19....
3. Financial statement:

	Authorized	Issued	Subscribed but Not Issued	Unissued
Preferred Stock,	—$.....	$.....	$.....	$.....
Common Stock,	—$.....	$.....	$.....	$.....
Bonds,	—$.....	$.....	$.....	$.....

(If there is any other mortgage indebtedness outstanding, attach schedule of same.)

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Assets	Amount
Real Estate	$
Bill Receivable	
Accounts Receivable	
Cash on Hand	
Cash in Banks	
Stock Subscriptions (Unpaid)	
Other Assets as follows:	
Total	$

Liabilities.	Amount
Common Stock outstanding	$
Common Stock Subscribed but Unissued	
Pref'd Stock outstanding	
Pref'd Stock Subscribed but Unissued	
Bonds outstanding	
Mortgages	
Bills Payable	
Accounts Payable	
Sinking Fund or Reserve	
Surplus	
Other liabilities as follows:	
Total	$

(Total of assets and liabilities should balance.)

(Forward to Sheet 2.)

Sheet 2

4. Statement showing the consideration received from the stock and bonds issued and outstanding to date:

COMMON STOCK.

	No. Shares	*Actual Value	Remarks.
Actual Cash		$	
Notes			
Real Estate			
Plant			
Equipment			
Patents			
Organizing			
Promotion			
Commissions			
Salaries			
Dividends			
Stock Subscriptions (Unpaid)			
Totals		$	

PREFERRED STOCK.

	No. Shares	*Actual Value	Remarks.
Actual Cash		$	
Notes			
Real Estate			
Plant			
Equipment			
Patents			
Organizing			
Promotion			
Commissions			
Salaries			
Dividends			
Stock Subscriptions (Unpaid)			
Totals		$	

BONDS.

	No. Bonds	*Actual Value	Remarks
Actual Cash		$	
Notes			
Real Estate			
Plant			
Equipment			
Patents			
Organizing			
Promotion			
Commissions			
Salaries			
Dividends			
Totals		$	

*This column should specify the actual amount of cash or notes received, or the actual value of real estate, etc., received in exchange for stock and bonds issued, and should correspond with the value at which these different items were given in to the company and carried on the books.

(Forward to Sheet 3.)

Sheet 3.

5. Statement of earnings for five years: (If a new corporation: from date of organization.) Fiscal year ends .....

	19....	19....	19....	19....	19....
Gross,	$.....	$.....	$.....	$.....	$.....
Net,	$.....	$.....	$.....	$.....	$.....

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6. Statement of dividends: (As above.)

	19....	19....	19....	19....	19....
Amount,	$.....	$.....	$.....	$.....	$.....
Rate,	.....%	.....%	.....%	.....%	.....%

7. Real estate, plant and equipment: (Give detailed description and location; give valuation as carried on books, also assessed valuation.)

8. Is the physical property covered by Insurance? If so give amount of policies and issuing companies:

9. Patents: (Give description and attach copy.)

(Forward to Sheet 4.)

Sheet 4.

10. What is the nature of the business now being or to be conducted? Give detailed plans of operation:

11. For what purpose are unissued securities to be sold?

(Attach copies of stock certificates and bonds.)

12. At what price and under what conditions and by whom are such securities to be sold?
(Attach copy of all contracts relative to sale of securities and resolution authorizing same.)
(Attach copy of application or contract from purchaser.)

13. Is it contemplated or probable that the owners of issued securities will offer the same for sale in the course of continued and successive transactions of a similar nature?

14. By whom is the bond issue trusteed?

15. Are the bonds guaranteed?.....If so, by whom and what is the personal worth of the guarantor or guarantees over and above their interest in the company?
(Attach copy of guarantees.)

(Forward to Sheet 5.)

Sheet 5.

16. Date of bonds.....Maturity.....
If bonds are optional, state at what price and provisions for calling:

17. State fully sinking fund provisions

18. Give name and address of attorney approving bond issue and attach copy of opinion hereto.

19. Have the company's books been audited?.....If so, by whom and when was audit made?

(Attach copy of audit hereto.)

20. Attach hereto a complete list of all stockholders, showing number of shares of stock or bonds held by each, value of same, and ACTUAL consideration which was given for same in each instance.

21. Sample copy of all literature or advertising matter MUST be attached.

22. Additional requirements are as follows:
    1. Attach copy of Articles of Incorporation or Charter, which must be certified to by the Secretary of State of the state under whose laws the company is incorporated.
    2. If not organized under the laws of the State of Michigan, attach copy of law under which company was organized.
    3. Attach copy of constitution and by-laws.
    4. Attach any amendments to any of the foregoing.
    5. Attach copy of mortgage or lease.
    6. All foreign companies must file consent that suits and actions may be commenced against it by service on the Commissioner of the State Banking Department. (Sec. 6, Act 46, P. A. 1915.) Blank forms are supplied by the commission.
    7. Filing fee must be computed at the rate of one-tenth of one per cent on face value of UNISSUED securities, minimum fee $10.00, maximum fee $100.00. No application will be considered until the fee is paid.
    8. Attach at least four references as to the character, responsibility and financial standing of each director. Also references as to the company itself. Business address of all references must be given.

(Forward to Sheet 6.)

Sheet 6.

21. The following is a list of the officers of the company:

	Name	Address	Salary per year.
President			
Vice-President			
Secretary			
Treasurer			
General Manager			
Directors:			
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			

Wherefore, in view of the showing herein made, the .....Company of..... does respectfully pray that it be permitted to sell its UNISSUED stocks and bonds in accordance with the provisions of the above mentioned law.

In Testimony Whereof We have hereunto set our hands and affixed the official seal of this company, this .....day of.....191...

.....
Company.

(Seals) By.....
President.

Attest.....
Secretary.

State of....., County of....., ss:
.....President, and.....
Secretary of the.....Company, of
.....of lawful age, being first duly sworn, depose and say that they have each read the foregoing application and know the contents thereof, and that the statements and allegations therein contained and attached are true.

.....
President.

.....
Secretary.

Subscribed and sworn to before me this the.....
day of.....191..

.....

Notary Public.

My commission expires.....

(See that CORPORATE SEAL is affixed.)

Form No. 9.

.....

..... File No.....

.....

(Do Not Write in this Space.)

.....

.....

To The Michigan Securities Commission,
Lansing Michigan.

Sirs:

The undersigned, having made application to sell its securities in the State of Michigan, hereby desire to register the following as its duly authorized agents in said state, as provided for in Sec. 10 and 11, Act 46, Public Acts of 1915.

.....

Do not write in this space.

Name of Agent.	Address.	File No.

Enclosed find.....for $.....in payment of registration as above (fee, $3.00 each).

Very respectfully,

.....

.....

Dated at.....
on .....

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Form No. 2.

MICHIGAN SECURITIES COMMISSION.

Consent Under Section 6, Act 46, Public Acts 1915.

Known All Men By These Presents:

That the..... of ....., a corporation incorporated and doing business under and by virtue of the laws of the State of.....and for the purpose of complying with the provisions of Section 6 of Act No. 46, Public Acts of 1915 of the State of Michigan, does hereby and herein make and give its consent that suits and actions may be commenced against it in the proper court of any county in said State of Michigan in which a cause of action may arise against it or in which the plaintiff in said action may reside, by the service of any process or pleadings authorized by the laws of said State of Michigan on the Commissioner of the State Banking Department of said State of Michigan. It is hereby stiuplated and agreed on the part of said corporation that such service of such process or pleadings on such Commissioner shall be taken and held in all courts to be as valid and binding as if due service had been made upon such corporation itself.

The consent herein given shall be deemed to be and is irrevocable.

In Witness Whereof, the said corporation has hereunto affixed its seal and signature in accordance with the resolution of the Board of Directors thereof authorizing the same.

.....(L. S.)

By.....(L. S.)

(Seal) President.

.....(L. S.)

Secretary.

State of.....)
) ss.
County of.....)

On this.....day of.....A. D., 191....., personally appeared before me, a notary public in and for said county and State,..... and ..... who are both known to me to be the persons whose signatures are attached to the foregoing instrument and who each acknowledged the same to be his act and deed, and

the act and deed of the corporation for which each said person purports to act.

.....

Notary Public.

My commission expires.....

(Attach hereto duly certified copy of the resolution of the board of directors authorizing the above.)

Form No. 3.

MICHIGAN SECURITIES COMMISSION.

Appointment of Commissioner of State Banking Department of Michigan as Agent or Dealer to Accept Service of Process or Pleading.

(Sec. 11, Act 46, Public Acts 1915.)

Be It Known By These Presents that I, ...
.....of the City (or Village) of.....
State of..... do hereby appiont the Commissioner of the State Banking Department of the State of Michigan as my agent in said State of Michigan upon whom process or pleading may be served for and on my behalf as a dealer within the meaning of Act No. 46, P. A. 1915 of said State of Michigan. Such appointment shall be deemed to be and is irrevocable.

Sealed with my hand and seal this.....day of .....191...

.....

Dealer.

State of.....}
County of.....} ss.

On this.....day of.....A. D., 191..., appeared before me, a notary public in and for said county and State,.....
to me known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.

.....

Notary Public.

My commission expires.....

(If a corporation certified copy of resolution authorizing the foregoing must be attached.)

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Form No. 5. Dealer's Application No.....

To the Michigan Securities Commission.
Lansing, Michigan.

Sirs:—

The undersigned hereby desire.. to be registered with the Michigan Securities Commission as a DEALER in stocks, bonds and other securities, under the provisions of Act No. 46, Public Acts of 1915, and for your information make the following statements:

1. Name (in full)
2. Business address
3. Residence (if individual)
4. If corporation, copartnership or association, give names and addresses of partners or stockholders.

Partners or Stockholders	Residence.	No. of Shares.

5. If corporation, give date and place of organization .....

6. If copartnership doing business in this state under an assumed name, state if you have filed certificate with county clerk as provided for in Act No. 101, Public Acts of 1907.

Give name of county and date certificate was filed .....

7. The following is a detailed description of the securities dealt in: (Securities exempted under the provisions of Sec. 3, Act 46 Public Acts of 1915, or those listed by the Standard Statistics Bureau's Stock and Bond Services, Poor's Manual of Railroads, Poor's Manual of Public Utilities and Poor's Manual of Industrials, Moody's Manual of Railroads and Corporation Securities, Michigan Manual of Corporation Statistics, Annual Financial Review-Canadian, Supplements to any of the above Manuals, need not be described.)

8. Until further notice.....hereby desire to register the following as.....duly authorized agents:

Name	Address.

Enclosed and will find.....for $.....to cover registration as DEALER (fee $50.00) and AGENTS' registration (fee $3.00 each).

.....certify that the foregoing statements are true and ....agree that.....will not sell or offer for sale any stocks, bonds or other securities unless the same comply with all the provisions of Act No. 46 Public

Acts of 1915, and in testimony thereof,.....have hereunto subscribed.....name and affixed.....seal this .....day of ....., 19....

.....(L. S.)
.....(L. S.)

Witness:

.....

N. B.—Non-resident dealers must file with the commission a duly authenticated appointment of the Commissioner of the State Banking Department of this State as his or its agent in Michigan upon whom process or pleadings may be served for and on behalf of the dealer, which appointment shall be irrevocable.

(Blanks for the foregoing will be supplied by the commission.)

RETURN ON SERVICE OF WRIT.
(Filed Sept. 14, 1915.)

United States of America, Eastern District of Michigan, ss:

I hereby certify and return that I served the within bill of complaint on the therein named Grant Fellows by handing to and leaving a copy thereof with him personally at Lansing in said District on the 4th day of September, A. D. 1915.

Henry Behrendt,
U. S. Marshal.

RETURN ON SERVICE OF WRIT.
(Filed Sept. 14, 1915.)

United States of America, Eastern District of Michigan, ss:

I hereby certify and return that I served the within bill of complaint on the therein named Frank W. Merrick by handing to and leaving a true copy thereof with him personally at Lansing in said District on the 8th day of September, A. D. 1915.

Henry Behrendt,
U. S. Marshal.

RETURN ON SERVICE OF WRIT.
(Filed Sept. 14, 1915.)

United States of America, Eastern District of Michigan, ss:

I hereby certify and return that I served the within bill of complaint on the therein named John W. Haarer

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by handing to and leaving a copy thereof with him personally at Lansing in said District on the 7th day of September, A. D. 1915.

Henry Behrendt,
U. S. Marshal.

CHANCERY SUBPOENA.

(Filed September 14, 1915.)

District Court of the United States of America for the Sixth Circuit and Eastern District of Michigan. Sitting in Chancery.

The President of the United States of America,

To Frank W. Merrick, Commissioner of Banking of the State of Michigan, Lansing; John W. Haarer, Treasurer of the State of Michigan, of Lansing; and Grant Fellows, Attorney General of the State of Michigan, residing at Hudson, Michigan, said three above named parties constitute the Michigan Securities Commission, citizens of the State and residents of the Eastern District of Michigan.

You are hereby commanded to be and appear in the District Court of the United States of America for the Sixth Circuit and Eastern District of Michigan, sitting in Chancery, before the Judges thereof, at the District Court Room, in the City of Detroit, Michigan, within twenty days from the date hereof, then and there to answer unto a Bill of Complaint exhibited against you as defendants by The Weis Fibre Container Corporation, a corporation organized and existing under the laws of the State of South Dakota, with its principal place of business in the City of Huron, South Dakota, as Complainant. And this you shall in no wise omit under the penalty of One Thousand Dollars.

Witness. The Hon. Arthur J. Tuttle, United States District Judge for the Eastern District of Michigan, this twenty-eighth day of August in the year of our Lord one thousand nine hundred and fifteen, and of the Independence of the United States the one hundred and fortieth.

Elmer W. Voorheis, Clerk.
By Carrie Davison, Deputy.

Memorandum.—The above named defendants are required to file their answer or other defense in this suit with the Clerk of this Court, at his office in the City of Detroit, Michigan, on or before twenty days after service of this Writ of Subpoena, excluding the day of service thereof, otherwise the Bill of Complaint may be taken pro confesso against said defendant.

Elmer W. Voorheis, Clerk.
By Carrie Davison, Deputy.

A True Copy.
Attest:.....United States Marshal, by .....Deputy.

RETURN ON SERVICE OF WRIT.
(Filed Sept. 14, 1915.)

United States of America, Eastern District of Michigan, ss:

I hereby certify and return that I served the annexed Chancery Subpoena on the therein named Grant Fellows by handing to and leaving a true and correct copy thereof with him personally at Lansing in said District on the 4th day of September, A. D. 1915.

Henry Behrendt, U. S. Marshal.

RETURN ON SERVICE OF WRIT.
(Filed Sept. 14, 1915.)

United States of America, Eastern District of Michigan, ss:

I hereby certify and return that I served the annexed Chancery Subpoena on the therein named John W. Haarer by handing to and leaving a true and correct copy thereof with him personally at Lansing in said District on the 7th day of September, A. D. 1915.

Henry Behrendt, U. S. Marshal.

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RETURN ON SERVICE OF WRIT.
(Filed Sept. 14, 1915.)

United States of America, Eastern District of Michigan, ss:

I hereby certify and return that I served the annexed Chancery Subpoena on the therein named Frank W. Merrick by handing to and leaving a true and correct copy thereof with him personally at Lansing in said District on the 8th day of September, A. D. 1915.

Henry Behrendt, U. S. Marshal.

ORDER TO SHOW CAUSE IN CASE No. 131.
(Entered Sept. 3, 1915, by Judge Arthur J. Tuttle.)

Upon reading the Bill of Complaint in the above entitled causes and the affidavit filed therewith, and on motion of Beaumont, Smith & Harris, Solicitors for the plaintiffs, it is hereby ordered this 3rd day of September, 1915, that the defendants show cause, if any they have, before the Judge of the District Court of the Eastern District of Michigan, Southern Division, on the 13th day of September, 1915, at ten o'clock A. M., or as soon as counsel can be heard why a temporary injunction should not be issued pursuant to the prayer of the bill.

Arthur J. Tuttle,
District Judge.

(The Order to Show Cause in Case No. 132 is the same as in Case No. 131, as appears above.)

RESTRAINING ORDER ENTERED IN CASE No. 131 AND 132.

(Entered Sept. 3, 1915, by Judge Arthur J. Tuttle.)

Whereas, in the above entitled causes, bills have been filed praying for the issuance of a preliminary Writ of Injunction, and application has been made to this Court therefor, and an order to show cause has been duly made, returnable on the 13th day of September, 1915, at ten o'clock in the forenoon in the Federal Building in the City of Detroit, Michigan; and it having been made to appear that there is danger of irreparable injury being caused to the plaintiffs before the hearing on said application for a writ of injunction unless the defendants are, pending such hearing, restrained as herein set forth.

Now, Therefore, take notice that you, the said defendants herein, your agents and employees, and each of you are hereby especially restrained and enjoined until the hearing as above set forth from

(a) Enforcing and attempting to enforce any of the provisions of said Act 46 of the Public Acts of 1915, against the plaintiffs herein, and

(b) From hindering in any way whatsoever the sale or offer for sale of the stocks, bonds and other securities by said plaintiffs, whether such sale or offer for sale be made by said plaintiffs or by their agents or employees.

(c) From beginning any action of any nature whatsoever against said plaintiffs, their agents and employees, or against any other persons, to prevent or hinder in any way the sale of the stocks, bonds and other securities dealt in by said plaintiffs in the State of Michigan.

(d) From publishing any information as to the stocks, bonds or other securities so dealt in by said plaintiffs.

(e) From arresting or causing the arrest of said plaintiffs or any agent or employee of said plaintiffs or any person who may within the State of Michigan sell, offer for sale or profess to sell for or in behalf of the plaintiffs any of the stocks, bonds or other securities of said investment companies.

Arthur J. Tuttle,
District Judge.

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ORDER OF APPEARANCE IN CASE No. 131.
(Filed Sept. 9, 1915.)

On motion of Grant Fellows, Attorney General, it is ordered that the appearance of said defendants be, and the same hereby is entered in the above entitled cause.

Dated September 8th, 1915.

Grant Fellows,
Attorney General.

(The Order of Appearance in case No. 132 is the same as in case No. 131, appearing above.)

ORDER CONTINUING RESTRAINING ORDER, ENTERED IN CASES No. 131 AND 132.
(Entered September 13, 1915, by Judge Arthur J. Tuttle.)

The solicitors for the respective parties to the above entitled cause, having consented thereto, it is hereby ordered that the restraining order heretofore entered therein shall stand in full force, and effect, to and until the 25th day of October 1915.

Arthur J. Tuttle,
District Judge.

PETITION OF OTIS & COMPANY FOR INTERVENTION IN THE ABOVE ENTITLED CAUSE.

(Filed September 16, 1915.)

To the Honorable, the Judge of the District Court of the United States for the Eastern District of Michigan, Southern Division. In Equity.

Otis & Company files this its petition for intervention in the above entitled cause and shows as follows:

1. That said petitioner is and has been for a long time past a partnership organized and existing under the laws of the State of Ohio, and having its principal office and principal place of business at Cleveland, Ohio. That it is composed of Charles A. Otis, a resident of Cleveland, Ohio, William A. Otis, a resident of Colorado Springs, Colorado, Merwin C. Harvey and George W. York residents of Cleveland, Ohio.

2. That said petitioning company is engaged in the business of buying and selling bonds and other securities and has been engaged in the business of offering said bonds and other securities for sale in the State of Michigan. That certain of said bonds and other securities so offered for sale by it in Michigan are bonds and securities the issue and sale of which is regulated by Act 46 of the Public Acts of 1915, and that said petitioner has by advertisement and otherwise professed the business of selling and offering for sale such securities in Michigan and has been engaged in such business in said State of Michigan, and that the sales that it has made in Michigan are in the course of continued and successive transactions of similar nature, and said petitioner has not in making such sales acted in a trust capacity created by law.

3. That your petitioner has been engaged in said business of buying and selling securities for considerable period of time, and it has invested in said business large sums of money and has from time to time acquired stock, bonds and other securities of great value and now owns certain of said bonds and securities, and that it has likewise contracted from time to time to sell bonds and securities of the kind above described for the owners thereof and the issuers thereof. That in the course of its business it has spent large sums of money in the establishment and advertising of said business and has acquired a valuable good will and extensive clientele in the State of Michigan. That it has acquired valuable

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information as to the names and addresses of persons and firms and corporations which purchase securities of the character above described and certain of such firms and corporations reside in the State of Michigan.

That the representations it makes as to the value of the securities are truthful representations based upon all the information that petitioner is able to gather and upon the judgment of its officers and experts in the valuation of the several kinds of properties upon which said securities are a lien, or which are owned by the corporations which issue capital stock so offered for sale by your petitioner.

4. That it sends into the State of Michigan agents and employees who there solicit the sale of certain of such securities and transmits such orders to the office of your petitioner in the City of Cleveland, Ohio, that thereafter a delivery of such securities is made by said petitioner in interstate commerce to the purchaser thereof in the State of Michigan.

5. Said petitioner further shows that on the 25th day of August, 1915, N. W. Halsey & Company, the Continental & Commercial Trust & Savings Bank Company, H. L. Higginson, et al., Arthur B. Leach, et al., filed their bill of complaint in the said Eastern District of Michigan, Southern Division, reciting in substance that they were engaged either in the issue or sale of stocks, bonds and securities of the character such as were described in said Act 46 of Public Acts of 1915; that they were engaged in the business of offering such stocks, bonds and securities for sale within the State of Michigan; that they were owners of certain of said stocks and bonds and had contracted to sell such securities and had invested large sums of money in connection therewith; that they were engaged in interstate commerce in the State of Michigan in and about the sale of said securities; and that thew were being solicited to sell such securities in Michigan, but that they had been informed that such securities could not be sold in Michigan except in compliance with said Act 46 of the Public Acts of 1915.

6. That the said bill of complaint further recited in substance that the provisions of said Act 46 as set forth in detail the acts of the Michigan Securities Commission, created by said Act 46, and and about the enforcement of said Act. That said bill of complaint likewise charged

that the said acts of said Michigan Securities Commission were wrongful and injurious to the plaintiffs; that it likewise charged that said Act 46 was unconstitutional and void and set forth in detail the reasons for said allegation, and that it concluded with the prayer that the said Act 46 be decreed to be unconstitutional and void and that defendants be restrained from enforcing same in any way whatsoever.

7. Your petitioner charges that the several allegations in the bill of complaint filed by said several plaintiffs, who were dealers in stocks, bond and other securities, are true as to your petitioner; that it is engaged in a similar business and that in all respects its situation is identical with the said plaintiffs; and that it is entitled to the relief prayed for by the said plaintiffs in their bills of complaint.

8. Your petitioner further charges the fact to be that said Act 46 is unconstitutional and void as set forth in said original bill of complaint. That the regulations and requirements promulgated by the said Michigan Securities Commission, as recited in said bills of complaint, are likewise unreasonable and void and threatens to cause, and are now causing your petitioner serious damage and loss, and that immediate and irreparable injury will be caused to your petitioner by reason of the enforcement of said act, and particularly by the fact that your petitioner, its agent and employees will be prevented from transacting its said business in the State of Michigan, or selling its said securities there, or delivering the securities it has already agreed to deliver there, unless done in compliance with said act, and will be entirely prevented from doing any of said business within the said State of Michigan for a possible period of thirty days after listing same, even of your petitioner should endeavor to comply with the provisions of said act.

9. Your petitioner further shows that on the filing of said bill of complaint in the above entitled cause, an order was duly made therein that the said defendants show cause upon a certain day why a preliminary injunction should not issue, as prayed in said bill of complaint; that thereafter by agreement a restraining order was duly entered restraining the said defendants from enforcing or attempting to enforce any of the provisions of said Act 46, as prayed in said bills of complaint.

10. Your petitioner further shows that its situation in all respects being identical to that of said plain-

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tiffs in said cause, it should be permitted to intervene therein, and it should have the benefit of the restraining order heretofore issued in said cause and such other relief as shall hereafter be granted therein.

11. Your petitioner further shows that great and irreparable injury will result if it is not permitted to intervene in said cause and if the benefit of said order, and the defendants are permitted to attempt to enforce the provisions of the said invalid and void act as against your petitioner, the co-partners therein, and its agents and attorneys. That it has a standing expense by way of salaries and other expenses in connection with its representation in the State of Michigan to the amount of at least $300.00 per month. That should your petitioner be compelled to cease doing business in Michigan until final decree in said cause, it would lose the amount of said expense and additional expense thereto necessary to maintain its salesman and representative during that period. That the gross expense and loss which would be cause to it would be at least the sum of $300.00 per month. That your petitioner in its business in Michigan disposes of approximately $20,000.00 par value of securities each month and earns thereon a substantial profit. That such profit would likewise be lost to your petitioner if it is prevented by the operation of said statute and the enforcement thereof by said defendants herein continuing its said business in Michigan.

Therefore, your petitioner prays that it be made a party plaintiff in said cause and may be allowed to intervene therein and may have the benefit of such restraining order and such other and further relief as to the court shall seem meet.

Otis & Co
By Merwin C. Harvey.

State of Ohio,
County of Cuyahoga, ss:

Before me this 15th day of September, 1915, personally came Merwin C. Harvey, who being duly sworn deposes and says that he is one of the partners of said Otis & Company, that he executed the foregoing petition for and on behalf of said Otis & Company, being authorized so to do, and that he knows the facts therein set forth and that they are true of his own knowledge.

C. P. Rockword,
(Notarial Seal.) Notary Public, Cuyahoga County, O.
My Commission expires Jan. 18, 1917.

DEMURRER AND MOTION TO DISMISS BILL OF COMPLAINT FILED IN CASES No. 131 AND 132.

(Filed Nov. 13, 1915.)

Now comes the above named defendants, Frank W. Merrick, John W. Haarer and Grant Fellows, constituting the Michigan Securities Commission, created under Act number 46 of the Public Acts of 1915, and move the court to dismiss the bill of complaint filed by the plaintiffs herein for the following, among other reasons:

I.

The said court is without jurisdiction in said cause.

II.

The said bill is to restrain criminal prosecutions under a criminal satute of the State of Michigan and no other or further relief can be granted by this court upon said bill. The bill, therefore, is without equity and the court without jurisdiction.

III.

The said plaintiffs has a full, perfect and complete remedy upon the law side of the court.

IV.

The bill of complaint does not state such a cause of action as entitles the said plaintiffs to relief in a Court of Equity.

V.

That the law under and by virtue of which the defendants claim to act, as set forth in said bill of complaint, namely, Act 46 of the Public Acts of 1915, is in all regards constitutional.

VI.

Because said Act number 46 of the Public Acts of 1915 is a valid exercise of the police power of the State and in no regard infringes any rights of the said plaintiffs under the State or the Federal Constitution.

VII.

Because said plaintiffs has not shown any irreparable injury, or any injury to them, or either of them, by the

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enforcement of the provisions of said Act number 46 of the Public Acts of 1915.

VIII.

Because said plaintiffs have shown by their said bill that the only injury which could result to them would be by and through a criminal prosecution brought by the duly accredited officers of the State of Michigan.

IX.

Because said bill does not show any threatened injury to the said plaintiff justifying the filing of a bill in equity.

X.

Because said suit is a suit against the State of Michigan.

Wherefore, these defendants move the court to dismiss said bill and to discharge the restraining order heretofore issued against these defendants.

Grant Fellows,
Attorney General, Solicitor for defendants.

RULES 22 AND 23, MICHIGAN SECURITIES COMMISSION. BULLETIN NO. 3, ISSUED AUGUST 24, 1915.

(Filed Feb. 7, 1916.)

22. Regular meetings of the Michigan Securities Commission will be held at its offices in the Capitol, at Lansing, Mich., on each Friday at nine o'clock A. M. No application will be considered unless complete and filed by nine o'clock A. M. of the preceding day.

23. Special meetings shall be held at the same place upon the call of the Chairman of the Michigan Securities Commission.

AFFIDAVIT OF FRANK W. MERRICK, JOHN W. HAARER AND GRANT FELLOWS, FILED IN CASES No. 131 AND 132.

(Filed Nov. 13, 1915.)

Ingham County, ss:

Frank W. Merrick, John W. Haarer and Grant Fellows being duly sworn depose and say, and each for himself doth depose and say: That he, the said Frank W. Merrick, is the Commissioner of Banking of the State of Michigan; that he, the said John W. Haarer, is the State Treasurer of the State of Michigan, and that he, the said Grant Fellows, is the Attorney General of the State of Michigan, and that they constitute the Michigan Securities Commission created by Act number 46 of the Public Acts of 1915, and have been acting as such Michigan Securities Commission since said Act took effect.

Deponents further say that the Manuals which have been approved by them under the terms and provisions of said Act are each and all of them standard manuals of information and are such manuals as are in use by the bankers and investment public of the State of Michigan.

Deponents further say that said Commission is a subscriber to reporting agencies and obtain and receive reports from such reporting agencies; but that none of said reporting agencies, nor the reports of said reporting agencies are treated and regarded as manuals, and that the companies reported in such reporting agencies are not automatically approved by said Commission; nor are the stocks, bonds or other securities reported by such reporting agencies regarded by said Commission as exempt under the provisions of said Act, but that such reporting agencies are used by said Commission to get information in the same manner and in no other manner than such reporting agencies are used by business houses who are subscribers thereto.

Deponents further say that the said Commission has not at any time issued in pamphlet form, or by means of newspaper advertisements, or otherwise, any information or statement with reference to any of the contracts, stocks, bonds or other securities sold or offered for sale by the plaintiffs, in this case or any of the interveners herein; nor have deponents, or any of them, ever threatened to do so; nor have these deponents, nor has said

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Commission, any intention of so doing, and further deponents say not.

F. W. Merrick,
John W. Haarer,
Grant Fellows.

Subscribed and sworn to before me, this 12th day of November, 1915.

Willard M. Cornelius,
Notary Public, Lenawee County, Michigan.
My Commission expires March 12, 1919.

ORDER CONTINUING RESTRAINING ORDER UNTIL THE DISPOSITION OF MOTION FOR INJUNCTION.

(Entered Nov. 29, 1915, by Circuit Judge Denison and District Judges Sessions and Tuttle.)

The motion for preliminary injunction having come on to be heard before a court composed of Circuit Judge Denison and District Judges Session and Tuttle, heretofore duly constituted to hear such matters pursuant to Section 266 of the Judicial Code, and such motion having been duly argued before such three Judges on the 13th day of November, and they having filed in this cause their approval draft or journal entry, it is now, in pursuance of such written approval, ordered as follows:

That the restraining order heretofore issued be continued in force until disposition by the court of the motion for preliminary injunction now submitted.

That each petitioner who has been allowed to intervene herein and each petitioner who shall be allowed to intervene herein pending the disposition of the motion for injunction, is entitled to the benefit of the restraining order in force to the same extent as if such petitioner were named as one of the complainants in the case; that the defendants be, and each of them is, until the disposition of such motion, restrained with reference to the securities and business of each intervenor who has been

or who may be permitted to intervene, and in the same manner and to the same extent as specified in the existing restraining order with reference to the business and securities of the complainants; and that subsequent application for intervention be heard and decided by the District Judge according to the merits of each application.

(Sgd.) A. C. Denison,
Circuit Judge.
(Sgd.) C. W. Sessions,
District Judge.
(Sgd.) Arthur J. Tuttle,
District Judge.

OPINION ON MOTION FOR PRELIMINARY INJUNCTION IN CASES No. 131-132.

(Filed Dec. 30, 1915.)

On motion for preliminary injunction against enforcement of "Michigan Blue Sky Law of 1915." Heard before Dennison, Circuit Judge, and Sessions and Tuttle, District Judges, pursuant to #266 of the Judicial Code. Per Curiam:

Two years ago, the same three judges, now sitting, considered the Michigan "Blue Sky Law" of 1913, and for the reasons stated in Alabama Co. vs. Doyle, 210 Fed., 173, held it invalid. No appeal was taken, but the Legislature of 1915 passed the substitute law which is now before us (Act No. 46, P. A., 1915). By the two pending bills and the various interventions, injunctions against the law's enforcement are sought by an issuing corporation and by corporate, partnership and individual dealers, all citizens of other states; and thus the law's validity is challenged by every kind of nonresident interest.

We do not doubt the jurisdiction of the court. See *Ex parte Young*, 209 U. S., 123; *Traux vs. Raich*, S. C. U. S., Nov. 1, 1915; *Phoenix Co. vs. Geary*, S. C. U. S., Nov. 29, 1915; *Michigan vs. Baird*, 173 Mich., 655; *Nolen vs. Reichman* (D. C. Tenn.), 225 Fed., 813.

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It is not important to go over the same ground as before. Our conclusions then announced have been more or less completely approved: In the Eighth Circuit, by Judges Smith, McPherson and Pollock (*Compton vs. Allen.* 216 Fed., 537;) in the Fourth, by Judges Pritchard and Dayton,—Judge Woods dissenting, but not on these points (*Bracey vs. Darst,* 218 Fed., 482); and in the Eighth, again, by Judges Sanborn, T. C. Munger and Elliott (*Sioux Falls Co. vs. Caldwell, Attorney General of South Dakota,* Nov. 18, 1915.)

The only question now open is whether the differences between the laws of 1913 and 1915 justify any different result as to the latter. We think not, because we find no substantial change in those respects which were held to be fatal. Some minor details have been corrected, but the new law, like the old, impresses upon interstate commerce a burden which is direct and which is beyond the limits of the police power.

The 1913 law suspended all deals for 30 days, and then, lacking actual objection, automatically withdrew legal objections. The new law forbids all dealings until after affirmative approval by the Commission. This approval would not, normally, be obtainable for several days, and it may be indefinitely withheld, without objection made or reason given, but at the mere convenience of the Commission. This change in the law has not diminished this burden, in directness or in weight.

Under the 1913 act, sales were to be forbidden, if the Commission finds that the plan of business is unfair or that the securities (a) are fraudulent, (b) will, in all probability, work a fraud upon the purchaser, or (c) will, in all probability, result in a loss to the purchaser. The 1915 act in terms seems to eliminate the tests of unfairness and of probable loss, but in fact provides for disapproval, if the Commission finds "that the proposed plan of business of said investment company, or that its proposed contracts, stocks, bonds or other securities are fraudulent, or are of such a nature that the sale of such contracts, stocks, bonds or other securities would, in the opinion of said Commission, work a fraud upon the purchaser" (#9). Has there been any substantial change, or has the omission of the words "unfair" and "loss" left the statute unchanged in true intent and meaning? Obviously, the statute is now content to rest the Commission's condemnation alone on the fraudulent character of plan or securities. They must also meet the ad-

ditional test whether, "in the opinion of the Commission," the sale of the securities would "work a fraud upon the purchaser." To "work a fraud upon the purchaser" must be something different from being "fraudulent;" and the clause would seem to be difficult of interpretation save for the aid given by the history of the statute and by an additional section which first appears in the new law. This is #8, copied in the margin.* It

*#8. The said commission shall have power to demand from any investment company seeking to come under the provisions of this act any further information other than such investment company is required to furnish under the provisions of this act which shall be necessary to the end that the commission may be put in possession of all facts and information necessary to qualify it to properly pass upon all questions that may come before it. It may make or have made under its direction a detailed examination of such investment company's property, business and affairs, which examination shall be at the expense of such investment company. It may cause an appraisal to be made, at the expense of said investment company, of the property of said investment company, including the value of patents, good will, promotion and tangible assets, and it may fix the amount of stocks, bonds and securities that shall be issued by any corporation, foreign or domestic, in payment for property, patents, good will, promotion and intangible assets at the value it shall find the same to be worth and may require that such stocks and securities so issued for such property, patents, good will, promotion and intangible assets shall be deposited in escrow under such terms as said commission may prescribe. And said commission may withhold its license to sell such stocks, bonds and securities if such corporation has issued stocks, bonds and securities in payment for property, patents, good will, promotion and intangible assets in excess of their value as found by said commission or if said stocks, bonds and securities are not deposited in escrow according to the terms fixed by such commission until such stocks, bonds and securities issued in payment for property, patents, good will, promotion and intangible assets in excess of the value so found by said commission have been surrendered to such corporation and cancelled by it, and until said stock has been deposited in escrow under the terms prescribed by said commission.

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provides in substance that the Commission may, by its own experts and physical examination determine the value of the property involved and may prohibit the sale, unless all securities in excess of the value so determined are surrendered to the Commission; which plainly means that the Commission is, directly or indirectly, to fix the price at which securities may be sold. When this provision is read in connection with the general rule of prohibition in #9, it is clear enough that "in the opinion of said Commission work a fraud upon the purchaser" means "in the opinion of said Commission will in all probability result in loss to the purchaser;" and no real change in the meaning has been accomplished.

The burden of examination imposed by #8 need only be noticed to be appreciated. There is no limit to either the time which may be consumed or the amount of expense which may be imposed; and from the whole statute, the conclusion that interstate dealings in legitimate securities is forbidden, save at the practically unregulated discretion of an administrative board, seems to us entirely clear.

The fees to be paid, the delays imposed, and the large, often very large, expense involved in furnishing information and conducting examinations amount to a practical prohibition of all small dealings, and they emphasize the directness and extent of the restrictions placed on all interstate commerce in these securities.

Several serious objections to the validity of the law are urged in addition to those passed upon in our former opinion; but it is unnecessary to consider them.

The preliminary injunctions prayed for should issue; but each complainant or intervenor, before an injunction may be issued for his benefit, must give a bond to the state conditioned that in case the law should ultimately be held valid, he will pay all fees and charges required by the act. The penalty and the detailed form of all such bonds shall be as from time to time determined by the Judge of this District.

Per Curiam:

(Sgd.) A. C. Denison,
Circuit Judge.

(Sgd.) C. W. Sessions,
District Judge.

(Sgd.) Arthur J. Tuttle,
District Judge.

ORDER GRANTING PRELIMINARY INJUNCTION CONDITIONALLY, ENTERED IN CASES No. 131 AND 132.

(Entered Dec. 30, 1915, by Circuit Judge Denison and District Judges Sessions and Tuttle.)

In the above entitled cause, the motion for preliminary injunction having come on to be heard before a court composed of Circuit Judge Denison and District Judges Sessions and Tuttle heretofore duly constituted to hear such matter pursuant to §266 of the Judicial Code, and such motion having been duly argued before such three judges and they having filed in this cause their written conclusion and opinion thereon, it is now, in pursuance of such opinion, ordered as follows:

1. That until the further order of the court, the defendants, their agents and employes and the agents and employees of the Michigan Securities Commission be enjoined and restrained from enforcing or attempting to enforce against any of the plaintiffs or its officers, agents or employees any of the provisions of Act No. 46 of the Michigan Public Acts of 1915, and from beginning or instigating any action, civil or criminal, against the plaintiffs or any of their agents or employees, based upon or pursuant to such act; and that a provisional writ of injunction issue accordingly.

2. That a similar writ of injunction pending the further order of the court be allowed and issued to each intervenor herein, including such as shall, pending the cause, be hereafter allowed to intervene; and that each subsequent application for intervention be heard and decided by the District Judge according to the merits of such application.

3. Before any injunction issues to any plaintiff or to any intervenor, he must give a bond to the State of Michigan conditioned that in case the law shall be ultimately held valid he will pay all fees and charges required by the act and which would have accrued against him if the law had been in force. The penalty and the detailed form and condition of each such bond shall be from time to time determined by the Judge of this District.

Approved for entry this 30th day of December, 1915.

A. C. Denison, Circuit Judge.
C. W. Sessions, District Judge.
Arthur J. Tuttle, District Judge.

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FORM OF BOND PRESENTED PURSUANT TO ORDERS GRANTING PRELIMINARY INJUNCTION AND APPROVAL OF THE COURT.

(Approved and Entered Jan'y 17, 1916, by Judge Tuttle.)

(Case 131).

In the above entitled cause counsel for plaintiffs having presented to the court for its approval a form of bond to be filed by each of the plaintiffs and each of the intervenors herein, and by all who may be subsequently permitted to intervene, and in accordance with an order of the court entered herein on the 30th day of December, A. D. 1915; and arguments of counsel for plaintiffs and defendants having been heard; and counsel having consented thereto, on motion of Beaumont Smith and Harris, attorneys for plaintiffs, it is ORDERED that the following form of bond be, and the same hereby is, approved, as to its penalty, detailed form and condition:

(Case 132).

In the above entitled cause counsel for plaintiff having presented to the court for its approval a form of bond to be filed by the plaintiff and each present and subsequent intervenor in accordance with an order of the court entered herein on the 30th day of December, A. D. 1915; and arguments of counsel for plaintiffs and defendants having been heard; and counsel having consented thereto, on motion of Beaumont, Smith & Harris, attorneys for plaintiffs, it is Ordered that the following form of bond be, and the same hereby is, approved, as to its penalty, detailed form and condition:

Know All Men By These Presents, that we.....

....

(hereinafter called the Principal) as Principal, and the United States Fidelity and Guaranty Company, a corporation organized and existing under the laws of the State of Maryland, and duly authorized to do business in the State of Michigan, (hereinafter called the Surety) as Surety, are held and firmly bound unto the People of the State of Michigan in the sum of Five Hundred ($500.00) Dollars, lawful money of the United States of America, to be paid to the said People of the State of Michigan, or to the authorized representatives of the said People of the State of Michigan, to which payment well and

truly to be made we bind ourselves, our successors, and assigns and each and every of them firmly by these presents.

Sealed with our seal, dated the ..... day of January, A. D. 1916.

The Condition Of This Obligation Is Such, that if the said Principal, one of the..... in the above entitled cause, shall well and truly pay to the said People of the State of Michigan, or to the authorized representatives of the said People of the State of Michigan, all fees and charges required by Act No. 46, Public Acts, Michigan, 1915, and which would have accrued against him if the law had been in force in case said law be ultimately held valid in the above entitled cause, then this obligation is to be void, otherwise to remain in full force.

.....(Seal)
.....(Seal)
Arthur J. Tuttle,
District Judge.

INJUNCTION.
(Filed Jan'y 31st, 1916).

United States of America.
The District Court of the United States for the Eastern District of Michigan, In Equity.
The President of the United States of America.

To Frank W. Merrick, John W. Haarer and Grant Fellows, their agents and employees and the agents and employees of the Michigan Securities Commission, Greeting:

Whereas it has been represented to us, in the District Court of the United States for the Eastern District of Michigan, In Equity, on the part of Superior Life

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Insurance Co., an Illinois Corporation, Plaintiff, that it has lately exhibited its bill of complaint against you, the said Frank W. Merrick, John W. Haarer and Grant Fellows, Defendants, to be relieved touching the matters therein complained of; in which Bill it is stated among other things that you are injuring the said plaintiff touching the matters set forth in the said bill, and that your actings and doings in the premises are contrary to equity and good conscience; we therefore, in consideration thereof, and of the particular matters in the said bill and the record set forth, do strictly command you, the said Frank W. Merrick, John W. Haarer and Grant Fellows, and the persons before mentioned and each and every of you, under the penalty of Ten Thousand Dollars, to be levied on your lands, goods and chattels, to our use and disposition, that you absolutely desist and refrain from directly or indirectly enforcing or attempting to enforce against the plaintiff or its officers, agents, or employees any of the provisions of Act No. 46 of the Michigan Public Act of 1915, and from beginning or instituting any action, civil or criminal against the plaintiff or any of its agents or employees, based upon or pursuant to such act, until the further order of the court.

Witness, The Honorable Arthur J. Tuttle, United States District Judge for the Eastern District of Michigan, this 21st day of January in the year of our Lord one thousand nine hundred and sixteen and of the Independence of the United States of America the one hundred and fortieth.

(Seal of Court) Elmer W. Voorheis,
Clerk of United States District Court.

Note: An Injunction, of which the foregoing is a copy, was issued at the instance of each of the plaintiffs and intervenors, and service thereof accepted by the defendants.

RETURN ON SERVICE OF WRIT.
(Filed Jan'y 31, 1916.)

United States of America,
Eastern District of Michigan, ss:

I hereby certify and return that I served the within Injunction on the therein-named Frank W. Merrick, John W. Haarer and Grant Fellows by handing to and leaving a true and correct copy thereof with each of them

personally at Lansing in said District on the 28th day of January, A. D. 1916.

Henry Behrendt,
U. S. Marshal.

ORDER OF CONSOLIDATION NUNC PRO TUNC.
(Entered Jan'y 22, 1916, by Judge Arthur J. Tuttle.)

In this case it appearing that the questions and issues of law involved in the above entitled causes are substantially identical, and that said causes may properly be consolidated and treated as one case in so far as proceedings therein taken are concerned, and

Whereas, counsel for respective parties have stipulated and agreed before the court that an Order of Consolidation here may be nunc pro tunc, and

Whereas, said causes were heard together by mutual consent; therefore,

It Is Ordered that said above entitled causes may be, and the same are, hereby consolidated and that the same be regarded as one cause, and

It is further ordered that such consolidation be regarded as in force and effect from and after said hearing.

Arthur J. Tuttle,
Judge of the District Court of the Eastern District of Michigan, Southern Diivsion.

O. K. H. H. S.

Dated this 22nd day of January, A. D. 1916.

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NOTICE OF APPEAL.

(Filed Jan'y 22, 1916.)

The plaintiffs and their solicitors will please take notice that the accompanying petition for order granting an appeal to the United States Supreme Court, and the accompanying assignment of errors will be presented to the Hon. Arthur J. Tuttle, Judge of said court at the office of the clerk of said court in the City of Detroit on Saturday, January Twenty-second, 1916, at nine o'clock A. M., Central Standard Time, or as soon thereafter as counsel may be heard.

Grant Fellows,
Attorney General.

Dated at Lansing this 19th day of January, A. D. 1916.

Business Address: Capitol, Lansing, Mich.

Service of within accepted Jan. 22, 1916.

Beaumont, Smith & Harris,
For Plaintiffs.

PETITION FOR ORDER ALLOWING APPEAL TO THE SUPREME COURT OF THE UNITED STATES.

(Filed Jan'y 22, 1916.)

To the Honorable, the Judges of the District Court of the United States for the Eastern District of Michigan, Southern Division:

Your petitioners, Frank W. Merrick, John W. Haarer and Grant Fellows, defendants and appellants in the above entitled cause, considering themselves aggrieved by the orders of this court rendered in said causes on the 30th day of December, A. D. 1915, whereby it was directed that preliminary injunctions might

issue from and under the seal of this Honorable Court prohibiting and restraining the said defendants, as members of the Securities Commission of the State of Michigan from enforcing or attempting to enforce as against, and as applied to, the complainants and intervenors in said causes, the provisions of Act 46 of the Public Acts of the State of Michigan for the year 1915, and whereby said act was declared to be null and void, hereby petition to be allowed to appeal from said order to the Supreme Court of the United States in accordance with the provisions of section 266 of the Judicial Code, as amended, for the reasons specifically set forth in the assignment of errors herewith presented, and filed.

Wherefore your petitioners pray for an order allowing said appeal and also that a transcript of the record and proceedings upon which said orders were made, duly authenticated, may be sent to the Supreme Court of the United States as prescribed by law.

Grant Fellows,
Attorney General.
Solicitor for Defendants and Appellants.

Dated at Lansing, Michigan, this 21st day of January, A. D. 1916.

Service accepted Jany. 22, 1916.

Beaumont, Smith & Harris,
For Plaintiffs.

ASSIGNMENT OF ERRORS.
(Filed Jan'y 22, 1916.)

Now comes the above named defendants and appellants by Grant Fellows, Attorney General of the State of Michigan, their solicitor and say that in the orders rendered by this court in said causes on the 30th day of December, A. D. 1915, whereby a preliminary injunction

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was authorized to be issued against these defendants and appellants restraining them as members of the Michigan Securities Commission of the State of Michigan from enforcing in any way, or attempting to enforce, as applied to said plaintiffs and intervenors, provisions of Act 46 of the Public Acts of the State of Michigan for the year 1915, and whereby said act was held to be null and void, there is manifest error for the following reasons:

I.

The court erred in holding and deciding that it had jurisdiction in said cause.

II.

The court erred in adjudging and decreeing that Act 46 of the Public Act of the State of Michigan for the year 1915 is unconstitutional, null and void.

III.

The court erred in authorizing and directing the issuance of a preliminary injunction restraining these defendants and appellants as composing the Michigan Securities Commission of the State of Michigan from enforcing, and attempting to enforce, as applied to said plaintiffs and the intervenors in said causes, the provisions of said Act No. 46 of the Public Acts of the State of Michigan for the year 1915.

IV.

The court erred in holding, adjudging and decreeing that said Act 46 of the Public Acts for the State of Michigan for the year 1915 is not a proper exercise of the police power of the State and that said act is in any way repugnant to the Constitution of the United States.

V.

The court erred in holding, adjudging and decreeing that said Act 46 of the Public Acts of the State of Michigan for the year 1915 is in violation of section 8 of Article I of the Constitution of the United States.

VI.

The court erred in holding, adjudging and decreeing that said Act 46 of the Public Acts of the State of

Michigan for the year 1915 is in violation of the power of the Congress of the United States to regulate inter-state commerce and that said act constitutes an interference with inter-state commerce in any form.

VII.

The court erred in holding and adjudging that said plaintiffs, or said intervenors, show such cause of act or threatened injury in said bills of complaint, or intervening petitions, as justify the exercise of the jurisdiction of said court or the seeking of any equitable relief therein.

VIII.

The court erred in holding and adjudging that said proceedings are not suits against the State of Michigan.

Wherefore these defendants and appellants pray that said orders of the District Court of the United States for the Eastern District of Michigan, Southern Division, may be reversed and set aside and that said bills of complaint and petitions of said intervenors may be dismissed.

Grant Fellows,
Attorney General,
Solicitor for Defendants and Plaintiffs.

Service of Copy of above accepted this 5th day of Feb'y, 1916.

Beaumont, Smith & Harris.

Dated at Lansing, Michigan, this 21st day of January, A. D. 1916.

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ORDER ALLOWING APPEAL.

(Entered Jan'y 22nd, 1916, by Judge Tuttle.)

The above named defendants, Frank W. Merrick, John W. Haarer and Grant Fellows, composing the Michigan Securities Commission of the State of Michigan having prayed an appeal from the orders made in said causes on the 30th day of December, A. D. 1915, whereby the issuance of preliminary injunctions out of and under the seal of this court, restraining said defendants from in any way enforcing or attempting to enforce the provisions, or any of them as applied to said complainants and the intervenors in said causes, of Act No. 46 of the Public Acts of the State of Michigan for the year 1915, and whereby said act was held, adjudged and decreed to be invalid, null and void, and said complainant having presented to this court and having filed its petition for an order allowing an appeal to the Supreme Court of the United States together with its assignment of errors;

It Is Now Ordered, Adjudged And Decreed By This Court that said appeal be allowed and that a transcript of the record and proceedings in said causes upon which said orders of December 30th, 1915, were made shall be forwarded to the Supreme Court of the United States as prescribed by law and by the rules of court in such case made and provided;

It is further ordered by the court that a citation be issued from this court directed to said complainants and intervenors directing and admonishing them to be and appear in the Supreme Court of the United States within thirty days from this date.

It is further ordered that said defendants and appellants file in this court a bond in the penal sum of Five hundred (500) Dollars conditioned upon the faithful prosecution of their appeal in said causes, and the rendering thereof good, said bond to be executed, approved by this court and filed herein within ten days from the date of this order.

Arthur J. Tuttle,
District Judge.

Dated this 22nd day of January, A. D. 1916.
O. K. H. H. S.

BOND ON APPEAL.

(Filed Jan'y 22, 1916.)

Know All Men By These Presents, That we, Frank W. Merrick, John W. Haarer and Grant Fellows, defendants and appellants in said above entitled causes are held and firmly bound unto said plaintiffs and appellees, N. W. Halsey & Company, Continental and Commercial Trust and Savings Bank, Arthur B. Leach, Ferry W. Leach, George G. Olmsted, Henry L. Higginson, James J. Storrow, George C. Lee, N. Penrose Hallowell, Hugh G. Levick, Charles H. Schweppe, Francis L. Higginson, Jr., Frederick W. Allen, David Shaw and A. James Sheldon, and The Weis Fibre Container Corporation, a South Dakota corporation, and the intervening plaintiffs in said causes, in the sum of Five Hundred (500) Dollars to be paid to the said appellees, or to their certain attorney, executors, administrators, or assigns, to which payment well and truly to be made we bind ourselves, our heirs, executors and administrators, jointly and severally by these presents.

Sealed with our seals and dated this 21st day of January in the year of our Lord One Thousand Nine Hundred Sixteen.

Whereas said appellants and defendants in the above entitled causes have prosecuted an appeal to the Supreme Court of the United States in accordance with the statute and the rules of court in such case made and provided, to reverse and set aside certain orders rendered and entered in said causes and in said court on the 30th day of December, A. D. 1915;

Now, therefore, the condition of this obligation is such that if said appellants shall prosecute said appeal to effect and shall answer all costs if they fail to make said appeal good, then this obligation shall be void, otherwise to remain in full force and effect.

F. W. Merrick,
John W. Haarer,
Grant Fellows.

O. K. H. H. S.
Approved Jan. 22, 1916.

Arthur J. Tuttle,
District Judge.

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CITATION.

(Filed Jan'y 22, 1916.)

UNITED STATES CIRCUIT COURT OF APPEALS,

FOR THE SIXTH CIRCUIT.

United States of America,
Sixth Judicial Circuit, ss.

To N. W. Halsey & Company, Continental and Commercial Trust and Savings Bank, Arthur B. Leach, Ferry W. Leach, and George G. Olmstead, Henry L. Higginson, James S. Storrow, George C. Lee, N. Penrose Hallowell, Hugh C. Levick, Charles H. Schweppe, Francis L. Higginson, Jr., Frederick W. Allen, David Shaw and A. James Sheldon, and the Weis Fibre Container Corporation, a South Dakota Corporation, Greeting:

You are hereby cited and admonished to be and appear at a session of the Supreme Court of the United States to be holden at the City of Washington, D. C., on the* 21st day of February next, pursuant to an Appeal filed in the Clerk's Office of the District Court of the United States for the Eastern District of Michigan, wherein Frank W. Merrick, John W. Haarer and Grant Fellows, are Appellants, and you are Appellees to show cause, if any there be, why the Decree rendered against the said Appellants in said Appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Edward Douglas White, Chief Justice of the United States, this 22nd day of January in the year of our Lord one thousand nine hundred and Sixteen, and of the Independence of the United States of America the one hundred and fortieth.

Arthur J. Tuttle.
United States District Judge, Eastern District of Michigan.

*Not exceeding 30 days from the day of signing.

Due and timely service of the within Citation is hereby accepted this 5th day of February, 1916.

Beaumont, Smith & Harris,
Solicitors for Complainants-Appellees.

PRAECIPE FOR APPEAL RECORD.

(Filed Feb. 5, 1916.)

To the Clerk of the District Court of the United States for the Eastern District of Michigan, Southern Division:

For the purposes of appeal of said above entitled causes to the Supreme Court of the United States, you are hereby requested to prepare certified transcripts of the following pleadings, papers and other matters for the record in said causes in accordance with the statutes and rules of court pertaining thereto:

(1) The bill of complaint in N. W. Halsey & Company, et al., plaintiffs, vs. Frank W. Merrick, et al., defendants.

(2) The bill of complaint in The Weis Fibre Container Corporation, a South Dakota Corporation, plaintiff, vs. Frank W. Merrick, defendants.

(3) The subpoenas duly issued and served in said causes.

(4) The order to show cause issued by said court in said causes.

(5) The appearance of the Attorney General in each of said cases.

(6) The affidavit of defendants Frank W. Merrick, John W. Haarer and Grant Fellows duly filed in said causes.

(7) Defendant's motion to dismiss the bills of complaint.

(8) Rules 22 and 23, Michigan Securities Commission.

(9) The intervening petition of Otis and Company.

(10) The stipulation of counsel for respective parties with reference to the intervening petitions, the questions presented thereby and designating the intervenors.

(11) The temporary restraining orders issued in said causes on the 3rd day of September, 1915.

(12) The orders of the court, made pursuant to stipulation, extending the restraining orders in said cases until the 25th day of October, 1915.

(13) The journal entry in the case of N. W. Halsey & Company, et al., plaintiffs, vs. Frank W. Merrick, et al., defendants, stating that the restraining order be continued in force until the motion for temporary injunction should be disposed of.

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(14) The orders of the court made on the 30th day of December, 1915, in each of said cases allowing the issuance of preliminary injunctions.

(15) The opinion of the court on the application for preliminary injunction filed December 30, 1915.

(16) The form of bond presented by appellees pursuant to the orders granting the preliminary injunction, and the approval of the court thereof.

(17) Copy of one of the preliminary injunctions issued in said causes.

(18) The order of consolidation of said causes made January 22nd, 1916.

(19) Notice of presentation of petition and assignment of errors.

(20) Petition for order allowing appeal.

(21) The assignment of errors.

(22) The order allowing appeal, made on January 22nd, 1916.

(23) Appellants' appeal bond.

(24) The citation directed to appellees requiring their appearance in the Supreme Court.

(25) The praecipe to the clerk of the District Court for the Eastern District of Michigan, Southern Division.

Grant Fellows,
Attorney General,
Solicitor for Defendants and Appellants.

Dated this 5th day of February, A. D. 1916.

Service of copy of above accepted this 5th day of Feby., 1916.

Beaumont, Smith & Harris.

STIPULATION WITH REFERENCE TO INTERVENING PETITIONS, THE QUESTIONS PRESENTED THEREBY AND DESIGNATING THE INTERVENORS.

(Filed Feby. 5, 1916.)

It is hereby stipulated and agreed by and between the parties to the above entitled causes through their respective counsel that the rights of the intervenors therein shall be regarded for the purposes of the appeal to the Supreme Court of the United States as the same as and as subject to the same incidents and conditions as the rights of the original complainants in said causes. It is further stipulated and agreed that none of the intervening petitions present questions other or different than the questions involved in the original bills of complaint. For the purposes of said appeal the following shall be regarded as intervening petitioners in said causes: Powell Gerard & Company, a Maine corporation; Wilsey Fierlein & Company, an Illinois co-partnership; Bolger Mosser & Willaman, an Illinois corporation; Otis & Company, an Ohio co-partnership; William P. Bonbright & Company, a New York corporation; Peabody Houghteling & Company, an Illinois co-partnership; Remick Hodges & March, a New York co-partnership; Yard, Otis & Taylor, an Illinois corporation; Charles S. Kidder & Company, a resident of Illinois; F. A. Brewer & Company, an Illinois partnership; Howard Simmons & Company, an Illinois corporation; William A. Read & Company, a New York co-partnership; Tillottson & Wolcott, an Ohio corporation; E. H. Rollins & Sons, a Maine corporation; John Nuveen & Company, a resident of Illinois; McCoy & Company, a Maine corporation; Devitt Trimble & Company, an Illinois co-partnership; William R. Compton Bond and Mortgage Company, a Missouri corporation; Chicago Savings Bank & Trust Company, an Illinois corporation; W. G. Souders & Company, a Maine corporation; and The Superior Life Insurance Company an Illinois corporation.

Beaumont, Smith & Harris,
Solicitors for Plaintiffs.
Grant Fellows
Attorney General Solicitor for Defendants.

Dated this 5th day of Feby. A. D. 1916.

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ORDER EXTENDING TIME TO FILE AND DOCKET PRINTED RECORD ON APPEAL TO AND INCLUDING THE 15th DAY OF MARCH, 1916.

(Entered Feb'y 17, 1916, by Judge Tuttle).

Upon the application of the clerk of this court for cause shown, it is by the court now here ordered that the time in which to file and docket printed record on appeal be and the same is hereby extended to and including the 15th day of March, 1916.

Arthur J. Tuttle,
United States District Judge.

Supplemental Transcript of Record

Supreme Court of the United States

October Term, [redacted] 1916

No. [redacted] 413

FRANK W. MERRICK, JOHN W. HAAHER AND GRANT FELLOWS,

Appellants,

vs.

N. W. HALSEY & COMPANY ET AL., AND THE WEIS FIBRE CONTAINER CORPORATION,

Appellees.

Appeal From the District Court of the United States For the Eastern District of Michigan.

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In the District Court of the United States

EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION.

No. 131. In Equity.

N. W. Halsey & Company; Continental & Commercial Trust & Savings Bank; Arthur B. Leach, Ferry W. L. Leach, and George G. Olmstead; Henry L. Higginson, James J. Storrow, George C. Lee, N. Penrose Hallowell, Hugh G. Levick, Charles H. Schweppe, Francis L. Higginson, Jr., Frederick W. Allen, David Shaw and A. James Sheldon,

Plaintiffs,

William H. Remick, George W. Hodges and Herbert B. March,

Intervening Plaintiffs,

vs.

Frank W. Merrick, John W. Haarer and Grant Fellows,

Defendants.

STIPULATION FOR SUPPLEMENTAL PRINTED RECORD ON APPEAL.

(Filed Apr. 6, 1916.)

In the above entitled cause it is hereby stipulated and agreed by and between the solicitors for the appellants and for the appellees, that this stipulation, petition and the amended petition for intervention in this cause of William H. Remick, George W. Hodges and Herbert B. March, doing business as Remick, Hodges & Co., filed in this cause October 19, 1915, be printed as part of the record of this cause on appeal, the said petition having been omitted by inadvertance from the said record as originally printed. It is also stipulated that

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the stipulation in this cause heretofore entered into under date of February 5, 1916, and printed on page 117 of the record on appeal in this cause is amended to strike out the words "Remick, Hodges & March, a New York corporation," and is set aside in so far as it refers to the said intervening petition of William H. Remick, George W. Hodges and Herbert B. March, therein referred to as Remick, Hodges & March. It is further stipulated that the record on appeal shall show that said petition of William H. Remick, George W. Hodges and Herbert B. March was allowed on the 4th day of November, 1915.

Grant Fellows,
Attorney General,
Attorney for Defendants.
Beaumont, Smith & Harris,
Attorneys for Plaintiffs.
R. R. Reed,
Atty. for Intervenor and Appellee.

Dated April 3, 1916.

PETITION OF WM. H. REMICK, GEO. W. HODGES, AND HERBERT B. MARCH FOR INTERVENTION.

(Filed Oct. 19, 1915.)

To the Honorable, the Judge of the District Court of the United States for the Eastern District of Michigan, Southern Division:

William H. Remick, George W. Hodges and Herbert B. March bring this their petition against Frank W. Merrick, John W. Haarer and Grant Fellows; and said petitioners complain and allege as follows:

I. That your petitoner William H. Remick is a resident of the City of New York, New York, your petitioner George W. Hodges is a resident of the Village of Bay Shore, New York, and your petitioner Herbert B.

March is a resident of the City of Orange, New Jersey; and that your petitioners are co-partners doing business under the firm name of Remick, Hodges & Company, having their principal place of business in the City of New York, N. Y.

II. That your petitioners are engaged in the business of dealing in, buying, selling, offering and negotiating stocks, bonds and other securities, issued by corporations and associations. That such business is known as investment banking, and is carried on by your petitioners in the City and State of New York, at their offices in said city, and also by agents in said city and elsewhere, and by mail, with various corporations, associations and persons throughout the United States and in the State of Michigan. That it is the custom in said business and of your petitioners to make offerings of securities held for sale and owned by your petitioners to various corporations, associations and persons, including the customers of your petitioners which offerings are made by agents and by mail throughout the United States and in the State of Michigan. That your petitioners now own many of such securities which they have offered, are offering and desire to continue to offer to their customers and to other corporations, associations and persons in the State of Michigan.

III. That your petitioners have no place of business in said state and at the present time are not sending any agents into said state, but they are endeavoring to secure business in said state and to sell securities therein as stated. The volume of such business and the value thereof is not sufficient to enable or justify your petitioners to attempt to comply with Act 46 of the Public Acts of 1915, referred to in said complaint, and that said act if enforced against your petitioners would have the effect of preventing them from making any further offerings in said state and from attempting to establish or develop any business therein, and from selling securities therein.

IV. That said act from its very nature excludes your petitioners from enjoying that freedom of commerce between the states which your petitioners have heretofore enjoyed and upon which the developments and growth of your petitioners' business of buying and selling such securities necessarily depends. That said act if enforced would irreparably injure and destroy such business and would prevent its extension into the State of Michigan, and your petitioners claim the right to ex-

tend such business throughout the United States and into such State of Michigan and to make offerings of securities therein by mail or by agents without paying the fees required by such act or submitting to its other burdensome and prohibitive requirements, and also without obtaining the permission of the defendants herein for the prosecution of such business or the making of such offerings under the terms of said act.

V. That your intervening petitioner is interested in the subject matter of the suit herein in like manner and to like extent as the complainants herein.

VI. That your intervening petitioner adopts the allegations of the bill of complaint as full and completely as though said allegations were set out in full herein, insofar as the same is applicable to it as a copartnership not having an established place of business in said state nor any agents doing business therein, and your intervening petitioner asks that it may be permitted to come into this cause as a party complainant.

VII. Your intervening petitioners charge that Act 46, Public Acts of 1915, is unconstitutional and void and of no effect, for the reasons and upon the grounds set forth in said complaint, and for the further reason that it entirely prevents your intervening petitioners from continuing to offer securities in said state and thereby deprives your petitioners of their liberty and property without due process of law, and destroys the freedom of commerce between the states.

Wherefore your intervening petitioners pray that they may be permitted to come in as parties complainant herein, and prays as in said bill of complaint, and that they may have such other and additional and further relief as to the court may seem equitable in the premises.

William H. Remick,
George W. Hodges,
Herbert B. March,
Intervenors,
By Hal H. Smith,
One of their Solicitors.

Robert R. Reed,
Solicitor for Intervenors,
Address, 111 Broadway,
New York City,
New York.
Beaumont, Smith and Harris,
Solicitors for Intervenors,
Ford Bldg., Detroit.

AMENDMENT TO PETITION OF WILLIAM H. REMICK, GEORGE W. HODGES AND HERBERT B. MARCH.

(Filed Nov. 16, 1915.)

The petition of the aforesaid petitioners, William H. Remick, George W. Hodges and Herbert B. March, is amended by the addition thereto of a new paragraph to be known as paragraph V (a), to read as follows:

That your petitioners' business endangered by this Act is the selling of securities owned by it, and that it desires to carry on such business, and not the brokerage business or the business of selling for others, in the State of Michigan. That the penalties imposed by said Act apply to each and every offering of any security in said State, and that said penalties are so severe and cumulative, both as applied to your petitioners and to any agent that they may wish to employ to sell in said State, that the mere enforcement of said Act as now threatened and carried on by the defendants so burdens and endangers any possible attempt by your petitioners to conduct their business by making offerings of securities in the State, and so endangers the liberty and property of any agent whom they may wish to send into the State, that they will be unable to make such offering or to obtain such offerings unless given relief by this court. That your petitioners will be constrained to submit to said invalid Act rather than take the chances of the penalties imposed by said Act.

Beaumont, Smith & Harris,
Solicitors for Plaintiffs.

ORDER ALLOWING REMICK, HODGES & MARCH, ET AL., TO INTERVENE.

(Entered Nov. 4th, 1915, by Judge Tuttle.)

The petitions of Tollitson and Wolcott Company; William A. Read, John W. Horner, Jr., T. H. Seaman, R. W. Martin, James Dean, R. L. Taylor, W. M. L. Fiske and Nigel L. Campbell, co-partners, as Wm. A. Read & Company, William H. Remick, George W. Hodges and Herbert B. March; Chicago Savings Bank and Trust Company; Yard, Otis and Taylor; Chas. S. Kidder, as Chas. S. Kidder & Co.; Frederick A. Brewer, Everett C. Brewer and Martin Kehoe, co-partners as F. A. Brewer & Co.; Howard, Simmons & Co.; W. G. Souders & Co.: and William R. Compton Bond and Mortgage Company, praying for intervention in the above entitled cause, having this day come on to be heard;

It is Hereby Ordered that the above named Tillotson and Wolcott Company; William A. Read, John W. Horner, Jr., T. H. Seaman, R. W. Martin, James Dean, R. L. Taylor, W. M. L. Fiske and Nigel L. Campbell, co-partners as Wm. A. Read & Company; William H. Remick, George W. Hodges and Herbert B. March; Chicago Savings Bank & Trust Company; Yard, Otis and Taylor; Chas. S. Kidder, as Chas. S. Kidder & Co.: Frederick A. Brewer, Everett C. Brewer and Martin Kehoe, co-partners as F. A. Brewer & Co.; Howard, Simmons & Co.; W. G. Souders & Co.; and William R. Compton Bond and Mortgage Company, have leave to intervene as plaintiffs in said cause.

Arthur J. Tuttle,
District Judge.